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VA, HUD, AND INDEPENDENT AGENCIES APPROPRIATIONS FOR 2000
DEPARTMENTS OF VETERANS AFFAIRS AND
HOUSING AND URBAN DEVELOPMENT, AND
INDEPENDENT AGENCIES APPROPRIATIONS
FOR 2000

HEARINGS
BEFORE A
SUBCOMMITTEE OF THE
COMMITTEE ON APPROPRIATIONS
HOUSE OF REPRESENTATIVES
ONE HUNDRED SIXTH CONGRESS
FIRST SESSION

SUBCOMMITTEE ON VA, HUD, AND INDEPENDENT AGENCIES

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DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND
INDEPENDENT AGENCIES APPROPRIATIONS FOR 2000

Tuesday, February 23, 1999.

U.S. CONSUMER PRODUCT SAFETY COMMISSION

WITNESSES

ANN BROWN, CHAIRMAN

THOMAS H. MOORE, VICE CHAIRMAN

MARY SHEILA GALL, COMMISSIONER

PAMELA GILBERT, EXECUTIVE DIRECTOR

Mr. Walsh. This is a bad precedent. I apologize. I said a late flight and the list goes on.

Opening Statements

Good morning. What I would like to do is just a few pleasantries, if I may. We have a newly empaneled subcommittee, and I would like to take the opportunity to introduce people on my side, and then give the Ranking Member, Mr. Mollohan, the opportunity to introduce the folks on his side, even though we all have the same issues on the same side.

I have had the pleasure in my brief stint in Washington to have had 10 years of chairing three separate subcommittees on appropriations. It has been a delightful experience. I have learned each time. Our responsibility has grown each time. The first was the District of Columbia; the second was the Legislative Branch; now we have VA, HUD and Independent Agencies.

In each and every one of these areas I have had the pleasure of working with a Democrat; in the first instance Julian Dixon, then Mr. Serrano, and now Mr. Mollohan, who was very, very helpful to me as Chairman to get the work done and to do it in as bipartisan a way as we could possibly do that.

I hope we can do the same thing with this subcommittee. I do not see why we can't. We all have real interests in these issues. They all affect our constituents equally, and I look forward to the next 2 years with great relish.

These are great issues, terrific departments. It is a huge budget. We are going to keep it that way, because you are doing so well with the small amounts of money that you have. Maybe we will use you as a model for everyone else.

Seventy-some-odd billions of these dollars are at our discretion, so we are going to need lots of cooperation to meet

the priorities of the departments and spending priorities with caps.

Without any further ado, let me introduce members, and if they have any comment, we would welcome it: Roger Wicker, the gentleman from Mississippi, glad to have you with us; John Sununu, a new member of the subcommittee from New Hampshire, great to have you with us, John; Rodney Frelinghuysen, one of many distinguished Frelinghuysens to serve in this Congress over its history, from New Jersey; and Mr. Joe Knollenberg from Michigan. Great to have you all here.

There are a few other members who are not here. Tom DeLay is not here, Dave Hobson, and Ann Northup from Kentucky, also a new member. Welcome.

Al.

Mr. Mollohan. Thank you, Mr. Chairman. Let me say that I look forward to serving with you on the subcommittee. In terms of the responsibility of the ranking membership, it is a new subcommittee for me as well, following the distinguished lead of our retired colleague, Lou Stokes.

We look forward to serving with you and the other Majority members, and I speak for all the Minority members. We certainly look forward to working with you on the basis that you have suggested, and agree that most issues in this bill certainly should be approached in a bipartisan fashion.

Let me first note that David Price is here. David is a fine member of this subcommittee, and has served on the appropriations subcommittee for some time, and will make a quality contribution to our effort.

I was going to note that Bud Cramer is the only new minority Member to join the subcommittee. I will welcome him in his absence, and I look forward to working with him. I think we have an excellent team, and I look forward to doing the business of the committee under your leadership.

Mr. Walsh. All right. Let us begin.

Our first hearing this morning is with the Consumer Products Safety Commission. The Commission's budget request for fiscal year 2000 is \$50,500,000, an increase of \$3,500,000 compared to last year's appropriation.

I would like to welcome the Chair of the Commission, Ms. Ann Brown, as well as other members of the Commission, Mr. Thomas Moore and Mrs. Mary Sheila Gall.

Ms. Gilbert. I am Pamela Gilbert, the Executive Director.

Mr. Walsh. How do you do? Welcome.

Your entire statements will be printed as part of the record. If you would like to summarize your statements, and we can then begin with our questions about your programs and your budget.

Chairman Brown's Statement

Ms. Brown. Thank you very much, Mr. Chairman. We welcome your new leadership. We look forward to working with you. We have already had a productive get-together, and we appreciate your seeing us.

As you know, I am Ann Brown, the Chairman. With me today are Vice Chairman Thomas Moore and Commissioner Mary Sheila Gall, and behind me are members of the Commission staff.

I will read a very short statement.

I am pleased to have this opportunity to testify in support of our fiscal year 2000 appropriation request. The modest increase in our budget to \$50.5 million, the establishment of a small, carefully targeted, applied research program, and other initiatives assure the agency will continue on the effective path we have followed for the past 5 years.

This has been a year of accomplishment and growing recognition for CPSC. We received two prestigious awards last year. First, the Ford Foundation, the Council for Excellence in Government and the John F. Kennedy School at Harvard honored us for the innovative development of our Fast Track Product Recall Program. Then the Institute for Dispute Resolution gave us an award for our use of a mediator in resolving a complex compliance case.

These awards show we are accomplishing our safety mission in innovative and cost-effective ways. Moreover, the strong commendation we received from the National Academy of Sciences' Institute of Medicine provides great impetus for our budget request.

To carry out the second year of our 6-year strategic plan, we propose a budget of \$50.5 million for fiscal year 2000. This year we have restructured our budget to more closely reflect our strategic goals.

Previously we organized our budget along functional lines; thus compliance, consumer information, hazard assessment and reduction, and agency management were separate categories. In our new format we have just two categories: reducing product hazards to children and families, and identifying and researching product hazards.

For the first time this year, we are proposing a separate specific research budget. We have always done some product research when funds were available. Our research proposal is supported by the recent report of the highly regarded National Academy of Sciences' Institute of Medicine.

After reviewing the Commission's performance in recent years, the report concluded:

This committee believes that the CPSC is on the right course, relying heavily upon cooperative efforts with industry to raise prevailing standards of safety. The committee believes the agency's capacity to carry out this strategy needs to be strengthened by including resources for applied research.

If you grant our request for \$1 million for the research program, we would use the funds to enhance the CPSC's capacity to study safety problems, stimulate product innovations, and examine the feasibility and efficacy of safer product designs. We would also develop and test methodologies for setting performance standards and monitoring compliance with such standards, as the Institute of Medicine report recommended.

In recent years we have repeatedly stressed to you our need for improvements in our technology. We do so again this year. As a data-driven agency, we must strengthen the tools we use to identify and analyze product hazards if we are to continue to make sound risk-based decisions.

The CPSC requests \$500,000 for an integrated hazard

database. This is a key improvement, because it will speed up hazard analysis and investigations.

We further ask an additional \$355,000 to fund various initiatives that strengthen the agency's ability to reduce deaths and injuries to children and those resulting from fire and electrocution hazards, household and recreation hazards, and child poisonings and other chemical hazards.

Some of these initiatives include oversight of the all-terrain vehicle industry safety program, the distribution of safety information to the Nation's families from pediatricians, the purchase of laboratory testing equipment, expanded consumer hotline services, and an additional safety video news release.

The balance of the additional request, \$2.1 million, is to maintain the agency's current safety effort at Year 2000 prices. The \$2.1 million will fund projected increases for salary and benefits of \$2 million, and General Services Administration estimates for space rent increases of \$126,000. This \$126,000 is outside the control of CPSC. CPSC did not increase our office space. The increase represents the GSA allocation of cost increases that GSA projects it will need to operate the Federal office space program in the year 2000.

a new partnership

In previous years I have told you about our partnership with Gerber products and other companies to promote consumer product safety. Today I am announcing a new partnership with CNA, a major insurance organization based in Chicago. With CNA's support, today we are issuing a new, free safety brochure highlighting low-cost safety devices for making homes safer for young children. This is called ``Childproofing Your Home: 12 Devices to Protect Your Children.'' Each year over 2.5 million young children are injured or killed in often preventable incidents in their own homes. The brochure will tell about safety devices that will keep the children safe in their homes, and CNA Financial Corporation of Chicago has underwritten the costs of producing and distributing this easy-to-read brochure that will be distributed free of charge by the Consumer Information Center.

This is the kind of public-private cooperation that helps us get our lifesaving information to the American public without regulation, without red tape.

Mr. Chairman, the Institute of Medicine report concluded that CPSC is ``now a model of regulatory efficiency.'' This judgment provides strong support for our budget request. The \$50.5 million we are requesting is equal to about one one-thousandth of the \$400 billion that it annually costs the American public for deaths, injury, and property damage caused by hazardous consumer products. Your approval of the full amount of our budget will be returned many times over in better health and safety for all American families.

Mr. Walsh. Thank you very much for your testimony.

[The information follows:]

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Statement by Commissioner Moore

Mr. Walsh. I believe Mr. Moore wants to make a statement.

Mr. Moore. Yes. Mr. Chairman and members of the subcommittee, I am Thomas H. Moore, Commissioner, U.S. Consumer Products Safety Commission. I am very pleased for this opportunity to testify in support of our fiscal year 2000 appropriations request.

For next year we are requesting \$50.5 million, which is a modest \$3.5 million increase over our fiscal year 1999 allocation. Although this request is \$6.8 million below our original request to the OMB, this proposed increase will sustain the Commission's current level of product safety activity.

We must use \$2.1 million of the \$3.5 increase just to meet mandatory administrative costs. Additionally, the modest additional amount will allow us to increase product safety in several ways. It will allow us to add a focused, applied research program to the agency, and it will allow us to integrate hazard databases to speed up product hazard investigations.

As I have noted each year--and I am sure that you have noted--that there is continuing growth of the public awareness in regard to the work that is performed at the Consumer Products Safety Commission. Clearly this growing regard for the results of our efforts is due to Chairman Brown's leadership, and very definitely to the hard work and skills of our professional staff and to their intense dedication to our mission.

But the highest regard must also be given to the administration, and particularly to this subcommittee, for the support we have received over the last 3 years. Without this consistent support, we could hardly have realized the success that we have had in reducing, for the American people, unreasonable risk of injury and death from consumer products, particularly those risks associated with children's products.

Because of their importance, I want to again mention the two recent prestigious Ford Foundation Group and Institute for Dispute Resolution awards that recognized the innovative ways in which we have carried out our mandates. The awards are testaments to the fact that creativity in the conception and implementation of results-oriented processes in handling safety issues are ongoing and are recognized at and beyond the agency.

With that in mind, I think that our proposal for a separate research budget deserves serious consideration. We need the ability to research significant consumer product safety problems that require substantial technical effort and expertise to adequately understand. An example is the need for long-term testing of circuit breakers to determine if changes in safety standards might reduce home electrical fires that originate in breaker panels.

The circuit breaker project shows how, with sufficient research-based knowledge, the Commission can work hand in hand with manufacturers to more effectively stimulate safe product innovations. Additionally, it is clear that Congress envisioned research as one of the Commission's activities. If you will take a look at Section 5 of the Consumer Products Safety Act,

you will find that mandate. There is no better time than now to go forward with that vision. We now need the support of this subcommittee to initiate these research activities.

I also want to stress that investing in an integrated hazard database will allow the Commission to make more productive use of Commission resources. Integrating our hazard databases is quite simply an efficiency matter. The ability to search multiple databases with a single question, update multiple databases at one time, and access documents from an electronic format could mean saving thousands of staff hours that could be redirected toward additional programmatic activities.

I urge the subcommittee to support the efficiencies that will result from the implementation of an integrated hazard database. Because time is limited, I will not go into the specifics of our safety program enhancements specified in our budget document, except to say that I strongly support them. Nor will I go into more detail about our noteworthy accomplishments.

I do, however, want to stress that we at the Commission are passionate--passionate about our mission. We feel that protecting Americans from unreasonable risk of harm from unsafe consumer products is indeed a noble endeavor.

In closing, I strongly urge the subcommittee members to support and appropriate the full amount requested in the President's budget to continue the progress that is being realized at the Consumer Product Safety Commission. Thank you.

Mr. Walsh. Thank you, sir.

[The information follows:]

Offset Folios 21 to 26 Insert here

Statement by Commissioner Gall

Mr. Walsh. Ms. Gall.

Ms. Gall. Thank you. I have a statement for the record, but let me just briefly state that as my colleagues know, I do not always rubber-stamp budget proposals that are brought forward. I sometimes find fault with them. I must say that I believe this particular budget before you today is a sound investment for the American taxpayer and the American families across the country.

There are a number of items that have been mentioned by our Chairman and Vice Chairman, in particular the research activities and integrating our database, which are a good follow-up to the GAO report that we had last year discussing our policy initiatives and how we pull together data collection activities and so on. So there are very sound investments in this budget.

I am proud to say that the people at our Commission are very dedicated to their mission, as are my colleagues here today. I can assure you that our Chairman knows how to squeeze every dime out of every industry that she can for joint partnerships. We are all very proud of working with. As a fiscal conservative I am especially proud of that, going to the private sector for cooperative efforts.

So I can state very clearly that I am in support of this particular budget.

[The information follows:]

Offset Folios 29 to Insert here

Mr. Walsh. Thank you.

Are there any other statements from the Commission?

Ms. Brown. No. We will be delighted to answer your questions.

Mr. Walsh. Very good. Thank you all very much for your thoughtful statements. We will proceed with the questions.

First of all, let me take an opportunity to thank the staff, particularly Frank Cushing, the leader, the clerk for this subcommittee, for preparing all of us for these hearings, and also to Douglas Nosik, who is here with us today, working at the hearings today, who has done a terrific job.

I am going to ask, if we try to give everybody about 5 minutes for questions and answers, I think I will get at least a couple of questions in, and if we need to go back around again we can do that. We do have two other groups coming in today, so we will see how that works.

use of additional funds

The budget that your agency submitted to OMB anticipated an increase of about \$10 million. The President came back at a level of \$50.5, a \$3.5 million increase. What would you have done with that \$10 million, almost \$11 million?

Ms. Brown. Originally we requested \$6.8 million in program enhancements that will not be funded under this budget request. The applied research that we talked about, that initiative was for \$5 million. Now we are requesting \$1 million. Of course, the \$1 million will fund fewer projects, fewer research projects than the \$5 million would.

Information technology, which is absolutely critical to our work, was originally requested at \$2.2 million. We are now requesting \$500,000 for the integrated hazard database portion of the request. That is one of our highest priorities and would have the most immediate effect on our safety work.

Then various program enhancements were originally requested at \$1.3 million, and we are now requesting \$300,000. Items not funded were \$300,000 to purchase outside contract support for investigations of complex product hazards, and \$185,000 to update our product population model. That is an economic model that is used in assessing product hazard risk. Of course, if we cannot find alternative means of achieving these items, they will probably come around again in future budget proposals.

Mr. Walsh. If additional funding were provided, would your priority be for the applied product hazard research?

Ms. Brown. Actually, I think first and foremost would be the \$1.7 million for information technology that the budget restraints have forced us to defer to future years. That would establish a sound replacement program to keep our equipment and software modernized and up to date and to take advantage of the latest technology. Right up there would be the research budget.

So the one and two would be technology and then research.

information technology equipment

Mr. Walsh. Are you talking about office systems software, or are you talking about software for applications?

Ms. Brown. What I would love is to get Doug Noble, who is in charge of this, to talk about this, since he is our expert here.

Mr. Noble. Good morning. The answer to your question is that \$1.2 million would be used to establish, for the first time, a program that would allow us to upgrade desk-top hardware and software applications on a 3- to 5-year rotational basis. It would also allow us to update network software and keep it up to date with other products that are released for products that we currently use.

About \$300,000 would be used for new applications as a one-time purchase, provide enhanced support to our network, and increase our capability to deal with emergencies involving our network operations. That is basically what we would be doing with this additional funding.

Mr. Walsh. What is your replacement cycle budget now? How often do you anticipate replacing software?

Mr. Noble. Our goal is to try to replace every 3 years. That is tied primarily to the fact that when we purchase, we try to include a good 3-year warranty. As those warranties expire, we are facing additional replacement costs.

Ms. Brown. We should be clear that we don't have a budget for that.

Mr. Noble. That would be our goal, but without the funding we are not able to implement that.

Mr. Walsh. You can't do that 3-year replacement cycle? If you got that additional funding that is what you would do?

Mr. Noble. We would begin that cycle. Right now the monies that go to hardware and software replacement are obtained whenever we have the chance, to move funds from salary money due to temporary vacancies that we have on the staff.

Mr. Walsh. The application software that you use for your research and for tracking products and so on, do you develop that software with software companies, or do you buy off-the-shelf sort of software?

Mr. Noble. It is a combination of both. What we try to do is use our career staff and contractors that are on site with us to develop software, develop database applications. These people are very knowledgeable, very dedicated, and have helped us over the past 3 years to develop three databases that are very efficient, saving us thousands of hours of staff time. These would be the same people that would be working with us to help us link our databases under an integrated concept.

Mr. Walsh. Thank you.

Mr. Noble. You are welcome.

applied research program

Mr. Walsh. On the applied product hazard research, the budget request to OMB was for \$5 million and 12 employees. The budget submitted to Congress requested \$1 million, with no

personnel assigned. What is the level of funding you expect to achieve for research programs over the next 3 years?

Ms. Brown. We originally requested \$5 million. Over the next 3 years, we would be delighted if we were able to get into that \$5 million category. We have a list, and I would be glad to submit it for the record, of different research projects.

Mr. Walsh. That is a 3-year figure or an annual figure?

Ms. Brown. If we could get to \$5 million over the 3 years, we would be happy with that. We would love to have gotten the \$5 million and to have done all the projects that we had. If we could not do that, \$5 million in 3 years, we would be certainly satisfied.

Mr. Walsh. That would also account for an increase in personnel?

Ms. Brown. Not necessarily. OMB left the decision to us about personnel. With the funding of \$1 million, I think we can do that with the personnel that we have. If the funding were to increase, we would then have to reassess to add some additional scientific staff to help manage the research contract.

Mr. Walsh. My last question is--I think this is a neat idea. By the way, that insurance company contract, that is my insurance company.

Ms. Brown. How propitious.

Mr. Walsh. For all the money I send them, I am glad I am getting something.

cpssc research role

Mr. Walsh. Why are we doing research on electrical circuit breakers, for example? Why wouldn't CNA and Aetna and all these other insurance agencies pool their money and pay for research to make electrical circuitry in homes more safe?

Ms. Brown. As a matter of fact we are often asked this question: Why don't manufacturers or other people do this kind of work?

They don't usually do the kind of research that we are proposing. We are proposing to do research to evaluate overall safety of entire classes of products and the adequacy of our voluntary safety standards. Manufacturers usually--individual manufacturers do research on product development. Very often the original research that we would do would stimulate the kind of research you are talking about. But what we have to do would have to be done first.

You know, CPSC is the only Federal health and safety agency without a research budget. The National Highway Traffic Safety Administration contract research budget is about \$50 million annually. We are the only Federal regulatory agency that has jurisdiction over consumer product safety, so there is an area where the research that we do is, quite honestly, catch as catch can.

We do what we have to do, but if we had this budget it would be much more systematic.

We also have an extensive team of professionals in the U.S. that have the expertise to deal with these types of hazards with consumer products. We have engineers, human factors people, standards, injury data collection and economic analysts. So we are the ideal people to start off this research

and then to encourage industry to follow up.

Just to add something that you really have not asked, but it is a question that I ask the staff when we talk about research: Is this redundant with other agencies? That is a question that I think we should ask.

For instance, CDC, the Centers for Disease Control, does provide some grants related to consumer products, but they don't do the type of applied product safety research that we are proposing because CDC does not have the same professional expertise or the regulatory authority. So that is what makes us unique.

Mr. Walsh. I have a few additional questions that I will submit in the record and you can respond at your leisure, or until the staff gets all over you.

Mr. Walsh. Mr. Mollohan.

Mr. Mollohan. Thank you, Mr. Chairman.

Ms. Brown, I heard you mention in your testimony that you had restructured your budget.

Ms. Brown. Yes.

Mr. Mollohan. And that it falls into two categories: first, reducing hazards; and second, researching product hazards.

Ms. Brown. Yes.

cpssc budget categories

Mr. Mollohan. Is that your whole budget as reorganized under those two categories?

Ms. Brown. I will have Pamela Gilbert, our Executive Director, talk about the restructuring, which I think will make some sense to you when she talks about it.

Ms. Gilbert. The short answer is yes, our entire budget is now structured into those two program areas. What we did is look at the results that our agency is trying to achieve. We saw that our budget did not reflect that story. Our budget was structured functionally, how we got to the results. We thought a much better way to tell our story and let the American public know what we are doing and how we are doing it is to structure it by results, so that is what we have done. We have switched our budget around.

The major result that we try to achieve--our mission--is to reduce product hazards to children and families. That is the one major program area. We have categorized that program area particular hazards: reducing children's hazards, reducing fire and electrocution hazards, reducing household and recreation hazards, and reducing child poisoning and other chemical hazards. Again, those are all our results.

The other program area is the baseline of how we are able to reduce those hazards. That is our data collection. And, if we were to get a research budget, our research budget would go under this program area. That is, identifying and researching product hazards.

Mr. Mollohan. As I heard you express it, you called that second category ``researching product hazards.'' What is the official name of the second category?

Ms. Gilbert. Identifying and researching product hazards. Right now the bulk of it is our data collection activities. We are a data-driven agency.

Mr. Mollohan. I thought it was quite an expression of optimism with regard to your research request that you could structure your budget and one whole category is called research.

Ms. Gilbert. Right. Research is a very small part of that category, in fact.

Mr. Mollohan. Following up a little bit on the Chairman's questions regarding your research request--you requested \$5 million from OMB this year?

Ms. Brown. Yes.

research budget

Mr. Mollohan. In your hopefulness with regard to this request, what do the outyears look like----

Ms. Brown. Well----

Mr. Mollohan [continuing]. In your vision? If you had gotten \$5 million from OMB this year and you had gotten an appropriation in 2000, 2001, 2002, what would these outyears have looked like?

Ms. Brown. I think quite hopefully and I think quite optimistically we would have loved to have had \$5 million each year for research.

Mr. Mollohan. When did you project that it would become flat?

Ms. Brown. We really did not make a projection to go year after year.

Mr. Mollohan. You might not have made a formal one, but you have sat around----

Ms. Brown. We have sat around and thought that our needs were \$5 million a year.

Mr. Mollohan. For how many years?

Ms. Brown. We had this plan for \$5 million for FY 2000.

Mr. Mollohan. That is kind of an important consideration, because you are opening a wedge in your budget. I think it would be important to us to learn how far you anticipate it growing into the outyears.

Ms. Brown. We certainly were not able to get what we had asked for, but the \$1 million would give us a good start on it. If we could build up to, for instance, \$5 million in 5 years, I think that would be a level that we would be content to stay with.

Mr. Mollohan. I understand that. What I really want to get a sense of is how large you expect this wedge to grow in five or six years.

Ms. Brown. I would never see it growing over \$5 million a year at this point.

Mr. Mollohan. At this point?

Ms. Brown. Right. Well, you are parsing my sentence pretty well. I would not see it at this point going over \$5 million.

Mr. Mollohan. As you see it now.

Ms. Brown. We made a list of projects that we thought were important to do, and they would get us a few years of what we thought was important. With product safety, you can't tell what is going to come up on the horizon.

Mr. Mollohan. How do you do this now? How do you do this function that would be served through your research initiative?

Ms. Brown. I don't quite understand.

Mr. Mollohan. Do you rely upon associations or industry groups to give you assessments about the safety of products? How do you make these judgments? You don't have a research program now, correct?

Ms. Brown. Right. We primarily do it through our staff. I would like to have the person in charge of research talk about this. It is Ron Medford. Would you come up, Ron?

Mr. Medford. Yes. The idea of the research budget, first of all, we do some research now. I think what we have been trying to do in this budget is actually in a formalized, structured way, to establish research as a part, an integral part, of the product safety program for the country.

So that in order for us to do major initiatives, one of the initiatives that we have talked about is the fire sprinkler system. As we continue to investigate how fire safety sprinklers operate, we are concerned that the standard--it is somewhat like what NHTSA does for automobiles or what FAA does for airplanes. It determines what the safety rules and manufacturing standards should be for products.

It is not that we would use our research funds to manufacture products, but it is actually to develop standards as problems emerge.

Mr. Mollohan. Does that responsibility not in some ways duplicate NIST's responsibilities?

Mr. Medford. NIST's responsibility is principally in the area of technology. Actually, we do fund some of NIST's work. They have a laboratory that relies on outside funding to support its programs. It oversees the standard development policy programs for the Nation but does not itself develop standards.

Mr. Mollohan. Would you anticipate doing this in-house or under contract?

Mr. Medford. Principally under contract. This would be contract initiatives--we simply don't have the capabilities in house to do it.

Mr. Mollohan. I can imagine there would be a list that would be infinitely long of things you could look at under this. How would you prioritize the things you want?

Ms. Brown. I will submit that for the record is the list of the \$5 million for projects that we went through very carefully, through all of the hazards that we saw, all of the work that needed to be done.

We said what is the most crucial in terms of saving lives.

Mr. Mollohan. So you had a process to arrive at that?

Ms. Brown. We absolutely had a very thorough process which included primarily the staff, our frontline people.

Ms. Gall. We also do a lot of work with industry as well. We have two recent examples of escalators and upholstered furniture, fire-resistant materials, where we have had a number of organizations present information or studies they had done, research they had done on fire-resistant materials.

So we work with government agencies, we work with industry, and try to develop as many partnerships in research as possible where our staff works directly with those conducting the research.

Mr. Mollohan. Thank you. I think I got a sense of where you

are coming from.

Mr. Walsh. For the sake of the members and the sake of order, what I will try to do is, I will go first and I will go to the Ranking Member, then we will alternate back and forth to those who arrive in the order that they arrive.

So in the case of Roger and John and Rodney and Joe, they were all here when we began, so we will go in that order, and then David Price has left, so hopefully he will be back when his turn arises.

Mr. Wicker.

Mr. Wicker. Thank you, Mr. Chairman.

Chairman Brown and members of the Commission, it is good to have you back for our very first hearing of this Congress.

Mr. Brown. Thank you.

furniture flammability

Mr. Wicker. I want to return to an issue that Mrs. Gall touched on, and that is the issue of furniture flammability.

As you all know, we engaged in a very spirited legislative debate about this issue last year. The regulation that the Commission was proposing and is proposing dealt with putting flame-retardant chemicals on fabric.

Our contention was there was not adequate information as to the effect of these chemicals on workers that would have to work around it; on consumers, and on the environment, so to speak, the unintended consequences of this. The end result is that we are now conducting a peer review of the toxicity and possible harmful effects of the chemical.

I might add, before I ask my question, that we were joined in this effort not only by representatives of industry, including the furniture industry and the fiber and fabric industry, but also by scientists and government agencies worldwide, and environmental groups, such as local chapters of the Sierra Club, the National Associations of the Environmental Defense Fund, Friends of the Earth.

On your side of the issue were the State fire marshals, but even so, they took not the same identical approach that your agency took. But let me leave the toxicity issue. Let's put that aside and talk about whether treating the fabric with the chemicals is going to be effective in preventing fires, if we ever get to that issue.

In October of 1997 your staff estimated that the treated fabric would eliminate 70 to 90 percent of small open-flame fires. I think that was based on an estimate rather than actual tests. I wrote you on June 4th of last year requesting clarification of these tests.

Basically what I wanted to know is are we taking a conventional chair, made according to American standards now, and comparing that chair to one made under the proposed regulation with the flame-retardant on the material?

I wrote you on June 4th. Now, on November 4th I got a letter back from your Director of Congressional Relations, Mr. Wager. In his letter he stated, and I quote: ``Direct comparison with similar chairs with and without flame-retardant factors cannot be performed, since manufacturers do not offer consumers the choice of flame-retardant fabrics.''

My question is this: I understand that in the British market, there have been chairs treated with flame-retardant materials which would, I am told, comply with your proposed new regulation. It is also my understanding that the CPSC is just now purchasing British-made chairs with the flame-retardant chemicals on them, that they are just now purchasing those for comparison purposes.

Why only now are those comparisons being made?

Ms. Brown. I will start, and then to answer your question I have to give you a little bit of background. We have at this point no proposed regulation. Nothing has come to the Commissioners. The staff has not had the chance to make any recommendations to us.

Mr. Moore. Any investigation.

Ms. Brown. We are right now in the course of the investigation, so I think that your concerns are a little premature. We have very carefully and deliberately and in a very open manner been studying this issue, and it has been now for over 4 years, because it is quite a complex issue. And we, the staff and the Commissioners, were the first to recognize that the potential chemical risks had to be studied. That is why we had a 2-day public hearing, why we got 400 pages of testimony, and why we are still receiving written comments.

So we have had no chance to see a staff recommendation, to see a proposal. We have had numerous meetings with industry and others, and we are now, of course, in the process of preparing an environmental impact assessment, and it includes possible impact on worker safety, and working with EPA to consider possible controls on FR chemicals. You understand, we are in the middle of a process.

I for one, and I don't know about my fellow Commissioners, have no idea how I would vote in such a matter because I have not even seen any kind of staff recommendations. So you are talking about us in the middle of our process.

The reason that we did start on this, that you have to understand, is that the safety of American children--there are 90 deaths each year from small open-flame fires on upholstered furniture, and 60 of those are children. That means that one child--more than one child a week is dying in a fire from upholstered furniture. Therefore, we started on that.

Mr. Wicker. I understand that, Ms. Brown, and I think you and I are both headed in the right direction of trying to prevent those deaths.

Ms. Brown. Correct.

Mr. Wicker. The question is what is the best way to do it. But since I am limited on time, let me get back to my question. That is, that we had an estimate from the CPSC that the use of this flame retardant on the fabric would be 70- to 90-percent effective.

Ms. Brown. Right.

Mr. Wicker. It now turns out that is based on some sort of estimate, and that you have yet to compare one chair with a chair made according to the regulation. I am just wondering when that sort of testing--when we can expect that to be done and why we have gotten this far down the road without that.

Ms. Brown. As I said, we are in our process. But let Ron Medford answer the specifics of that.

Mr. Medford. Congressman Wicker, we had tested previously, and the information that you are relying on and the staff was relying on were actual tests we conducted on fabrics that had been obtained and back-coated with chemical treatment already, so we did have a basis for making those statements.

There are a limited number of chemicals that are used either in the United States for commercial furniture or in the UK that we could test. As you know, there is a list of about 16 possible chemicals that could be used. There is only one or two that are in use. We obtained from the UK back-coated fabric on the items that we tested and relied on to make those data.

Also, we briefed the Commission previously, we had tested chairs manufactured to the UK standard, but in this past year, before the end of this fiscal year, we ordered more and received this fall additional UK chairs we are testing now. We are continuing to develop data, but we had tested product with fabric back-coating on them prior to making those estimates. So we were relying on actual fabric.

Mr. Walsh. Mr. Wicker?

Mr. Wicker. Just briefly because I know that we have a time constraint. You mentioned 90 deaths a year in the United States caused by small open-flame ignition. You will acknowledge that historically the vast majority of fires with regard to upholstered furniture have been caused by cigarette ignition?

Ms. Brown. Correct.

Mr. Wicker. I think you would agree that the voluntary effort by industry, the UFAC program, has been very successful in that regard.

I have been informed that the material coated by the small open-flame retardant could actually make furniture more susceptible to ignition by cigarettes, which is the major cause of death. Do you have that information?

Ms. Brown. The information that I understand from the staff is that the work that they have done on small open flames could help reduce the cigarette-ignited fires, and I will let Ron elaborate on that. We had exactly the opposite information.

Mr. Medford. There was a meeting at the Commission in the last 2 weeks where the fiber manufacturers came in and presented us with some data that suggested in fact that you could see the kind of reversals that you talked about. That is somewhat contradictory to the tests that we have seen.

Mr. Wicker. Counterintuitive almost.

Mr. Medford. That is counterintuitive, and not based on the data that we had performed in our laboratory. We are very interested in that data, and our testing is continuing. So we are going to be investigating that information. We have that information and we are looking into it.

Mr. Wicker. If objective science demonstrated a higher likelihood of cigarette ignition, your agency would be concerned about that and you would be looking at a different approach?

Ms. Brown. Of course. I would just want to say that I believe the staff and the Commission should have the opportunity as an independent regulatory agency to consider this issue, just as it does all other regulatory matters, following the criteria established in our statutes by the Congress. That is why we are so concerned about chemicals, FR

chemicals. We have the same concerns that you do, and feel that we should be allowed to complete our work so we can get a staff recommendation based on the very best possible science.

Mr. Wicker. Mrs. Gall, would you like to comment?

Ms. Gall. Well, I have some major concerns about the upholstered furniture investigation that has been conducted. We have wonderful experts at the agency who do good work, but I think there is a lot of information that we just don't know. We don't know about fire-resistant chemicals. I have the same concerns you do about workers, about disposal of these kinds of materials which might comply with EPA regulations, for example.

Another concern I have is upholstered furniture. This is something that you keep for a long period of time so the impact of any proposal we may come up with will be very long range in seeing any results, and we should address that.

I think AFMA and some of the other organizations have done a terrific job. Certainly the cigarette voluntary work that they have done has made a significant drop in fires. I think there is just a lot we don't know. We don't know the cost-benefit. We don't know about associations with EPA regulations. We need to carefully examine those. We don't know about fire-retardant chemicals. There are a lot of unknowns at this point, and so I agree with the Chairman that we do need to continue on with our research. But I think it is a slow process, and certainly GAO has made a contribution and others will be looking into this. I have some very serious concerns, and we will be looking at those carefully as we move on.

Mr. Walsh. Maybe you can finish up your questioning in correspondence or maybe wait until the end.

Ms. Brown. Of course I will talk to the Congressman. We were working closely with industry and EPA. EPA is, in fact, working on possible controls on FR fabric compound chemicals, compounds which they would oversee, and each one that the industry wanted to use. So we are well on top of all of these and I offer my good offices to you to talk to you at any time you like.

Mr. Moore. I want to reiterate this is a work in progress. This is not anywhere near a proposal. Staff is considering each of the issues raised by Commissioner Gall and Congressman Wicker.

Mr. Walsh. By virtue of his earlier arrival, Mr. Price is recognized.

Mr. Price. Thank you. Chairman Brown and fellow Commissioners, I appreciate your appearance here and continue to be impressed by your work. It is good to see these awards for innovation and also for dispute resolution and mediation, which I think demonstrate that the government can be a positive force in protecting our citizens without unduly hampering business.

fast track recall program

I wonder if you can describe the Fast Track Product Recall Program. I know that is something that you have invested a great deal in, and I am particularly interested in how you get industry to participate. How does this work?

Ms. Brown. The Fast Track Product Recall Program is an idea

that came to us from the staff, from the bottom up so to speak, and what we were looking to try to do is to get recalled products off of the market faster and out of people's homes more quickly and more thoroughly, because anytime you have a dangerous product in someone's home or on a store shelf, there can be death or injury.

The staff came up with an idea that they would do the recall within 20 days or less if the companies who report a problem to us--companies have to report, and what would help the company would be that it would be done within 20 days and there would be no letter of preliminary determination in the company's files. Companies don't like that in product liability suits, so it was giving them something. It encouraged their reporting, and it also helped the consumer simultaneously because it got dangerous products off of the market faster and it has been an amazing success.

Almost 60 percent--over 50 percent of our recalls are down on fast track, and instead of the 30 to 40 percent of recalled products that we might get back, we are getting 60 percent of the products back, which means that dangerous products are not lurking in people's homes.

This has been a very, very successful program and that is why the John F. Kennedy School and Ford Foundation gave us this prestigious award. It is so prestigious because there were 1,400 applicants for this award and there were only 3 Federal agencies which received one this year, and one was the Consumer Products Safety Commission.

Mr. Price. Congratulations. You say that businesses have strong incentives to get involved, and how do you encourage that?

Ms. Brown. We encourage it by assuring them there will be no letter of preliminary product defect determination in their file, which is a great incentive.

Mr. Price. You say that this leads to a higher than normal percentage of returned products.

Ms. Brown. Are returned.

Mr. Price. Why is that?

Ms. Brown. First of all when we do this, it is done so quickly that people in their homes are more aware of it. It is not something that has lingered in their homes for 6 months. That is how long it takes a normal negotiation to develop. So within 20 days--they may have just bought the product recently and so they are more aware of it and so we get many more back that way.

Mr. Price. What are some examples of products which have been subjected to this?

Ms. Brown. I just happen to have that list. Hasbro recalled 1 million Tonka trucks that posed choking hazards to children.

Sunbeam recalled 73,000 gas grills because a defective hose could leak or cause a fire. This recall was done in 5 days and over 90 percent of the grills were returned to Sunbeam. And other fast track recalls have been IBM computers, Gap Kid windbreakers, Gerry baby monitors, and Shimano bicycle cranks.

Mr. Price. What is the IBM item?

Ms. Brown. I would have to get you that. It was a defective battery in a computer.

[The information follows:]

Computer Hazard

Under the Fast Track Product Recall program, IBM recalled a computer monitor because internal wiring could be exposed presenting an electric shock hazard.

Mr. Price. Thank you.

Ms. Brown. Thank you.

Mr. Walsh. Mr. Sununu.

Mr. Sununu. In the interest of time, Mr. Chairman, I will submit the few questions that I have in writing. Thank you.

Mr. Walsh. Thank you. Mr. Frelinghuysen.

cpssc strategic plan

Mr. Frelinghuysen. Thank you, Mr. Chairman. Ms. Brown, I periodically see you on the Katie Couric show and you seem to do a good job and it is good to see you in the flesh.

Would you satisfy my curiosity--I have a boon for self-punishment, and I was looking over your strategic plan for last year--and if I look over the material correctly, you had a 10-year strategic plan last year. Why is it a 6-year plan this year? I have it right in front of me, and I just wondered what happened to the 4 years?

Ms. Gilbert. I cannot answer your question right now. I would like to submit the answer for the record. (See insert on p. 34.)

Mr. Frelinghuysen. I think it is important to have strategic goals. Last year--and I have a copy of your overview of your strategic plan--you had 10 strategic goals and this year in your testimony you have 8 strategic goals. What happened to the other 2 goals?

Ms. Gilbert. There has been no change in our strategic plan. I don't know exactly what you are referring to and I don't have it in front of me.

Mr. Frelinghuysen. I am referring to the testimony from last year which lays out all of your goals, which includes reducing head injury to children from consumer products by 15 percent. Last year the goal was 10 percent, according to the document here, so now it has been increased by another 5 percent. And then preventing any increase in the death rate from poisoning to children, reducing the death rate from fires by 10 percent. So you have 8 goals and at some point in time I would like to know what happened to the other 2 goals.

Ms. Brown. We may be comparing apples and oranges because the strategic goals have not changed and the percentages have not changed.

Ms. Gilbert. One percentage has changed. The head injury percentage did change and that is because our staff reassessed head injury data and trends and what we were doing about them. We determined that we will be able to reduce those head injuries 15 percent rather than 10 percent in that same time period. We did change those percentages. The number of goals has not changed, and I am as confused as you are at the moment. We may have taken 2 goals and combined them and called them 1.

Mr. Frelinghuysen. The public view is often that Congress

does not know what is going on from year to year, but in reality good staff work pointed out the fact you had a certain number of goals last year and a diminished number this year, and maybe for good reason.

Ms. Brown. I don't know anything about that, but we will clarify that and certainly get back to you on it.

[The information follows:]

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measuring progress toward goals

Mr. Frelinghuysen. More importantly than the number of goals is how you measure how close you have come to reaching those goals. I don't need a response to each of the 8 strategic goals, but in reality you put these out there. They are important to society, most particularly the children, but how do you actually measure success in just a brief response?

Ms. Brown. Briefly, let's just talk about one goal, head injuries. We assess what are the various kinds of head injuries from our data. And we found baby walkers falling downstairs cause head injuries to children, and head injuries to children on the playground, and so we go through the various kinds of head injuries. Then we determine what can be done and what we can do and the amount of time needed to accomplish the result.

For instance, with the baby walkers, industry has come up with a new type of baby walker that stops at the top of the steps, or is wider and so it cannot go down the steps, and our staff predicts that we can reduce head injuries to infants and children by a certain amount by parents buying these baby walkers, which are the only ones available. So we can do both prognostication and then we can check ourselves when our data comes in to see if we have in fact reduced the amount of deaths and injuries.

Mr. Frelinghuysen. I thank you for that response. You are asking for a \$1 million increase in your budget for research. Do you conduct this research in-house or do you contract it out?

Ms. Brown. We primarily contract it out.

Mr. Frelinghuysen. Like primarily 95 percent?

Ms. Brown. Probably 90 to 95 percent would be contracted.

escalator safety

Mr. Frelinghuysen. The Commission has been discussing since 1996 the escalator-elevator industry regulations governing the space between side wall and steps. The Commission has petitioned to improve or update this standard?

Ms. Brown. Yes.

Mr. Frelinghuysen. Can you provide the committee with an update on your actions, and can you include any pending or proposed new regulations and are the companies participating voluntarily?

Ms. Brown. Yes, it is just escalators, not elevators, and there are an estimated 5,500 escalator-related injuries treated yearly in hospital emergency rooms. And in May 1997 the

Commission docketed a petition to develop a mandatory standard for escalators. The petitioners allege that there were unreasonable risks of serious injuries resulting from entrapment of feet and toes and other body parts in the opening between the stairs and sides of escalators.

Soon after we got that petition, the Justice Department granted the escalator industry trade group an antitrust waiver so that its members could pool their funds and sponsor research in the area of step-to-skirt entrapment. That is the official name of that entrapment. This is scheduled to be completed by September 1999, and the CPSC staff plans to evaluate that petition and provide a briefing package with a staff recommendation later this year.

Mr. Frelinghuysen. Who or what agency developed the existing standard or code? Certainly we are aware of some of the situations that existed and they are particularly horrendous and horrible.

Mr. Medford. The existing standard is with the American Society for Mechanical Engineering. It is a code that is published with input from the manufacturers, and Commission staff is also participating in those activities; but more importantly, the codes are adopted into State and local law so it is the requirements that exist by law in State and local jurisdictions. But in order to effect safety changes, you have to do it through that code mechanism, which is a voluntary code mechanism, and that is what we have asked them to do--the escalator industry to do.

Mr. Frelinghuysen. Lastly, when the study is completed, will it be used for revisiting the issue or rewriting the current code?

Ms. Brown. Absolutely. That is very important.

Mr. Frelinghuysen. That is something that we can count on happening?

Ms. Brown. Yes.

Mr. Frelinghuysen. Thank you, Mr. Chairman.

Mr. Walsh. Thank you. Mrs. Meek.

Fireworks Safety

Mrs. Meek. Thank you very much, Mr. Chairman. I am concerned about the year 2000 and I am sure that your agency has anticipated that there may be some injuries from fireworks. Have you looked at that and, if so, what initiatives have you planned?

Ms. Brown. We know that there will be a lot of fireworks during the millennium celebration, and fireworks are an important part of our jurisdiction. We know that firework usage will go up, and we want to make sure that injuries don't go up. I am pleased to report that firework injuries is one that over the last 3 years have been reduced by one-third. But 8,700 treated injuries are still too many.

So first of all for the year 2000, we will step up our enforcement efforts to keep the illegal, unsafe fireworks from getting out to the public. Last year we worked with Customs and we seized 40 million illegal fireworks which can hurt people. Second, we are planning a major public information initiative on fireworks safety for the public, especially to be unveiled around July 4 and the New Year's celebration. The kickoff of

that information effort will be on the Mall on July 1, 1999 and I invite you all to attend that, and we already have many partners joining with us on that safety initiative. We will get information out to communities in many different forms and variations about firework safety, and our message is: Leave the fireworks to the professionals, and if you do use fireworks, here are some safety procedures.

Mrs. Meek. I am concerned about the hazards associated with escalators. I have witnessed several very traumatic accidents happening to elderly persons. Can you share with me some of the things that your agency has done in that regard?

Ms. Brown. We have a petition docketed about the safety of escalators, and the industry is working on finding ways to narrow the skirt issue so that the side of the escalator and the wall--that is where people get their feet caught.

Mrs. Meek. So many of them are so high, that is something that should be looked at.

Ms. Brown. Right. Some things we can do things about, but certainly those horrendous injuries, elderly people and children, are debilitating injuries. And so that is why escalators are one thing that we are concerned about in trying to update the standard.

Mrs. Meek. Is the research focused in some particular area?

Ms. Brown. That is the area.

Mrs. Meek. Thank you.

Ms. Gall. Before we address some of those issues with regard to escalators, there is a jurisdictional question as to whether or not the Commission has authority over escalators that are in stores and so on, whether or not it is actually a consumer product.

Mrs. Meek. What about airports?

Ms. Gall. Anything where the escalators are in the public sector or Metro station or wherever, depending on whether we have jurisdiction over that type of product and whether it is a consumer product.

Ms. Brown. That is a concern, and our general counsel advises me that we have reasonable grounds to assert jurisdiction over escalators. However, we are seeking additional facts from industry before we make a final decision on that, and we hope to have that additional information by this summer.

Mrs. Meek. Thank you.

Mr. Walsh. Thank you. Mr. Knollenberg.

CPSC Jurisdiction of Escalators

Mr. Knollenberg. Thank you, Mr. Chairman. Thank you all for coming.

One of my questions picks up on the escalators. I think you just brought it up, too, in your commentary on the jurisdiction issue. Nobody questions that there should be some oversight of escalators, and I understand that there are over 5,000 injuries annually associated with escalators, but I am focusing on the jurisdiction. If you look at the fact from the definition of a consumer product, if you look at it from that perspective and you go to the Consumer Product Safety Act, there is a definition which was provided which makes me question whether

it is really within the jurisdiction of this Commission.

Let me just read for you--and I would like to insert this into the record if I could because it does define the term ``consumer product.'' It means ``any article or component part thereof produced or distributed for sale to a consumer for use in or around a permanent or temporary household or residence, a school, in recreation or otherwise, or for the personal use, consumption, or enjoyment of a consumer in or around a temporary or permanent household or residence, a school, for recreation or otherwise.'' It goes on to define the terms of things that are not included as well.

It seems to me that there should be some reasonable doubt about jurisdiction. That isn't to say that it shouldn't be in somebody's oversight, but is it truly one that is reserved for your particular arena and--by the way, Mr. Chairman, I do want to submit that for the record.

Mr. Walsh. Without objection.

Mr. Knollenberg. And I want to focus on what is clearly a desire, a design to save lives injuries, et cetera, but perhaps it should be reserved for another agency or department.

Ms. Brown. Congressman, let me have Jeff Bromme, who is our general counsel, respond to you on that.

Mr. Bromme. Congressman, I agree with you. I believe that there is an area here with respect to jurisdiction where there is a ``cloudiness,'' you might call it.

The statute that you quoted is the lighthouse that we will be following: Is it a product in use at home, school, recreation or otherwise? Our office has from the beginning of the Commission taken the position in several opinion letters that the Commission has a basis to assert jurisdiction over escalators and elevators; but the Commission, which is the ultimate arbiter of its jurisdiction, has never taken that position. One of the issues that our office is looking at closely is the assembling of additional and pertinent facts which would guide that inquiry in light of the case law that has been developed under our statute.

Mr. Knollenberg. When you think about consumer products, you think about an item you pick up at the corner store. I don't know of too many corner stores that have escalators. It does require some analysis.

Mr. Bromme. We agree with that.

Bunk Beds

Mr. Knollenberg. Let me go on to bunk beds. I know that you are taking some steps to develop mandatory standards on bunk beds, and this is an issue which has been in the annals of concern for some time. This proposed rule, I understand, is one that, coupled with the research that is already out there, that there is already substantial voluntary compliance within the industry. The Federal Register, I think, makes reference to that and notes that the percentage of currently produced bunk beds that conform to the standard can be as high as 90 percent or more. This is voluntary. Many mandatory standards don't get to that level.

And my concern is, just one question: Why is the Commission pursuing mandatory standards when they even acknowledge that

the industry has already at least a 90-percent compliance rate?

Ms. Brown. Yes, I can explain that. This industry is a very unusual industry. The major players, the big manufacturers, are in compliance but it is an industry where small manufacturers crop up all of the time. And when our compliance staff goes out, they continually find bunk beds that do not comply, and each of those is a potential death trap. There are still 10 deaths every year to children in bunk beds, so despite the voluntary compliance that we have, we see the continuation, not the lessening by any amount, of 10 deaths to children in bunk beds.

Because of the nature of the industry, being such small people springing up all of the time, small manufacturers, it was the staff's contention that a mandatory standard would carry more weight in this case because the voluntary standard, despite the compliance that we have, has not reduced the number of deaths. Our mission is to reduce deaths.

Mr. Knollenberg. Would you say that it may be a case where the newer, smaller companies, yet experienced, are the ones that produce the biggest part of the problem then? For example, if that were the case, I would perhaps suggest that there should be a greater focus on new companies coming online to produce that kind of product. I don't mean to drive them out of business, but if it is the mature companies that are experiencing good results----

Ms. Brown. The members of AFMA.

Mr. Knollenberg. Maybe there is a way to focus on those that are new to the industry to make sure that they reach the levels that you insist upon. If you are hitting 90 percent----

Ms. Brown. It is 85 to 90.

Mr. Knollenberg. Some figures that I have show that it is over 90. If you are that close on a voluntary basis, we ought to promote aggressively, any way we can, to reflect our appreciation of them reaching that level, and then go after that area----

Ms. Brown. That has been done by both AFMA, the furniture manufacturers and the industry. However, the number of small manufacturers who you can't even find have manufactured up to 500,000 beds a year that don't comply.

Mr. Knollenberg. There are no standards to oversight that?

Ms. Brown. The kind of oversight in this case would be what a mandatory standard would do. In other words with a voluntary standard we can't impose civil penalties and we can't have Customs stop them at the dock if they are imported. I am a major proponent of voluntary standards. We have won an award from a voluntary standard organization for the work we have done with voluntary standards. We have done 4 to 1 in terms of voluntary standards, 4 voluntary to every mandatory that we have done. But the difference between that 85 to 100 percent may be 50,000 beds; each one of those could be a potential death trap to a child. I got a catalog from major department store that had a bunk bed advertised in it just last week and the bunk bed would cost \$2,700 and it did not conform to the standards. I showed it to our staff.

Mr. Knollenberg. I appreciate your comment, but it seems to me that in some respect--and don't take this the wrong way--that good is the enemy of perfect. You want that last inch, but

at what cost and what risk? Again, I am suggesting that maybe this is the focus for someone other than you, perhaps it is you and your Commission, but perhaps it is something that should be focused on differently. Maybe it is the imported products. Maybe it is this flowering industry with all of the new entrepreneurs coming on board with their product, and I think you should not drive them away but certainly ascertain and assess that arena more closely. That is what I am gathering.

Ms. Brown. The last inch happens to be these 10 deaths a year. That is our major consideration: How do we reduce those deaths?

Mr. Sununu. If you will yield, 10 deaths a year attributable to bunk beds. How many deaths a year are attributable to deaths that are not bunk beds?

Ms. Brown. A lot more, but there is no way to regulate that. People put their children in a regular bed. We only regulate what is plausible and feasible in this world of reality. It is called ``real world.''

Mr. Knollenberg. Just to reclaim my time----

Mr. Sununu. Perhaps I didn't understand. You are saying you can make bunk beds safer, but not regular beds?

Ms. Brown. That is correct.

Mr. Knollenberg. I am concerned about mission creep. We have other areas that have greater liabilities in terms of producing. Yes, Commissioner?

Ms. Gall. I don't share the Chairman's view of this particular issue. I think 90-percent compliance rate, considering other additional factors as well, is certainly well and above substantial compliance, given that we have a great number of mandatory standards where we have much less than the 90 percent.

For example, in the fireworks industry, a lot of product comes from overseas. It is cottage industry in China and we are happy to achieve a 56-percent mandatory standard compliance rate. We hope for a higher percentage and we are working toward more; but we are very happy with 56 percent.

But going beyond the specifics of the bunk bed industry and the proposed regulation, there is a corollary issue with regard to bunk beds. How are we as an agency defining the term ``substantial compliance.''

We are currently undertaking a very interesting debate within the Commission on this issue.

Mr. Knollenberg. Thank you.

Mr. Walsh. Thank you, Mr. Knollenberg. Mr. Cramer.

Mr. Cramer. Thank you, Mr. Chairman.

Mr. Walsh. By the way, welcome to the committee.

Mr. Cramer. Thank you, I am happy to be here.

I absorbed your information, Ms. Brown, and regret that I was not here when you made your presentation. How many employees does the Commission have?

Ms. Brown. Four hundred eighty.

Mr. Cramer. How has that changed in the last 5 years?

Ms. Brown. Since the 1980s the staff and budget have been cut in half, not that our areas of jurisdiction have been cut at all. We have the same workload with half the staff.

Mr. Cramer. I am interested in your partnerships that you referred to, the private sector partnerships, Gerber and CNA. How do those partnerships occur and what amounts of money do they assume responsibility for?

Ms. Brown. It depends how you meet them. You meet someone in daily work from one of the industries and you talk to them and tell them about the work that we are doing, and we have the ability to receive gifts, and they will generally come to us and say we would like to do something in cooperation with you.

Mr. Cramer. Such as the childproofing brochure?

Ms. Brown. CNA came to us, and we do say that we love to work cooperatively with the industry.

Mr. Cramer. How much has CNA contributed?

Ms. Brown. I don't know exactly how much.

Mr. Cramer. Is that a new partnership?

Ms. Brown. Yes, it is. Gerber has been a new partnership. Companies provide different amounts. I know that it is quite expensive to produce these brochures.

Mr. Cramer. So that partnership with CNA is specifically over that?

Ms. Brown. Yes, they have made this booklet and they will help us get it out to people. And the best thing that they are doing, it costs a lot to get it out to the consumer, but consumers can get that free of charge and that will be shown in Parade magazine.

Mr. Cramer. Other than the advertisement, how does the Consumer Information Center distribute those?

Ms. Brown. Anybody can write to them, and we on our own get to the Federal agencies, the nurses, pediatricians, on our website. People know about this and can call us.

Mr. Cramer. I want to congratulate you on your work, and I am very impressed.

Ms. Brown. Thank you.

Mr. Walsh. Mr. Hobson.

Mr. Hobson. In deference to time, I submitted the following questions, and I won't read the whole question, but if anyone wants to read the record afterwards, on the bicycle helmet programs, on the grandparent guide--and that was Mr. Stokes' favorite question--on the applied product research, on rent, and year 2000; also, how the CPSC uses its website to promote safety, and on the National Omnibus 1995 Program how you have done so well on that.

Strings on Children's Jackets

Mr. Hobson. The other question that I failed to submit--some years ago we changed the way that children's clothes are made in this country with drawstrings. It was done without any new rules or regulations. Ms. Brown, you were able to get this done. Is anybody monitoring it? Are people still limiting themselves to the 2 inches with the drawstrings?

Ms. Brown. We went to the industry and explained the problem that children were getting strangled by the drawstrings of their hooded garments that would get caught in elevators or escalators or school bus doors or playground equipment. The industry voluntarily changed over to hooks and eyes, snaps and Velcro. And in stores today you are hard-pressed to find

anybody selling anything with a drawstring. And industry worked with us to get this information to remove the drawstrings from around their children's garments or just to tack them down and to only have a 2-inch one at the waist.

We haven't got the data up to date yet because the death data comes to us more slowly, but I have heard of only one death, every death is a terrible tragedy. I read all of the death notices that the CPSC gets, and so far we have only gotten one death with a drawstring. So I think when we do get our data in, we are going to see a precipitous decline in deaths from those drawstrings, and we are monitoring to see what are being sold.

Mr. Hobson. That is the result of one letter that I wrote, so voluntary compliance does work.

Ms. Brown. Absolutely. I am a big proponent of voluntary compliance when it can work.

Mr. Hobson. Thank you. Congratulations to both of you.

Bunk Beds

Mr. Moore. The issue of bunk beds bothers me somewhat. I don't know where the agency is going to go with that, but to continuously focus on a statistic in terms of compliance I think goes in the wrong direction, when our aim is to try to reduce injuries and deaths. Even if you have 95-percent compliance, if you are still getting a high number of beds that are out of compliance, that means those beds are potentially unsafe. That means that you are putting a large number of children at risk. So you still have to look at that and say is there more that we can do in this particular area to protect these children.

That is what it is about. It is not about substantial compliance. It is not saying we have 90-percent compliance, let's ignore 50,000 bunk beds not in compliance and a large number of deaths a year because we have this sizable compliance rate. That is going in the wrong direction. I think we need to be investigating in that area to find out if there is more that can be done.

Mr. Walsh. Would Mr. Knollenberg like to respond?

Mr. Knollenberg. Thank you, Mr. Chairman.

You have areas where 85 percent is okay. On the strength of some of those numbers in other arenas, other areas, I wonder why this intense focus; it seems like it is a rifle shot on the bunk bed and that is a concern that I still have not heard anyone who spoke to justifying 80 or 85 percent. Now we want to justify 95, 98 percent on this little strata of product, and it is just not clear to me.

Ms. Brown. There is only one question that you have to ask about whether to have a mandatory regulation: Will it make a difference?

Mr. Walsh. Can we leave it at that? We are really getting our back up against the time slot, and I want to leave time for Ms. Kaptur before we go to the next department.

Ms. Kaptur. I will submit most of my questions for the record. They have to do with the hazard research program and strategic goals, a little more explanation on that.

Imported Products

Ms. Kaptur. I wanted to ask you about the imported items that are coming onto our shores in greater and greater numbers. This is certainly true in everything related to children, particularly toys. The Commissioner mentioned fireworks and so much of that is imported now. To what extent does your involvement with foreign firms shipping to our shores differ from U.S. firms that are already located here? Is there a difference in either the extent of your involvement with them? Is it the same? I am very interested in how you describe the difference between U.S.-based firms versus those located offshore and the goods back here.

Ms. Brown. We tend to find that the imported goods give us more problems from a safety point of view. For instance, with the Government of China, we have sent people over trying to explain about our regulations and how they work. Very often when we do a recall, we did the recall recently of a Baby Dior infant carrier. It is a Swedish company and they recalled the product in the United States. Because we got them to recall the 260,000 baby carriers in the United States, they did a worldwide recall. So we can certainly have an effect.

We work with Customs to stop any import of products that do not comply with our regulations, but there still is a major problem with infant deaths and one that we are dealing with every day.

Alan do you have anything to add? This is Alan Schoem.

Ms. Kaptur. Do you have anything to add?

Mr. Schoem. We hold the U.S. importers accountable for any product that doesn't meet our standards, so we work closely with the U.S. Customs Service and they will stop products that we evaluate after testing as being in violation. Customs will stop those products from coming into the country. That does not mean that some violative products won't get into the country. We hold the U.S. importer accountable, and the U.S. importer is responsible for recalling that product.

Ms. Kaptur. I wanted to ask you, though, if you look at all children's related toys made in this country versus all children's related toys that are imported, what responsibility do you have over those imported items? You say that you hold the importer responsible. With your staff of 400, what percent of imported items can you even look at? Do you act only on the basis of complaints? Do you do spot checks? Do you go to Toys 'R Us? There are warehouses of foreign goods.

Mr. Schoem. We do all of that. We rely on other people to help us. Toys 'R Us, for example, has a very good program. They test products that they are importing into this country. Not only are they tested in foreign countries but they test them themselves after the manufacturer has tested them.

Working with the U.S. Customs Service, we are using their resources and their investigators who have worked with us and they identify product which they think is suspect. They will look at bills of lading identifying toys coming into this country and they will do a screening test at the dock themselves or call our investigators to do a screening test if it looks like the product might be violative, and we send it to our lab and test it. In the meantime, Customs is holding that

product at the dock or they release it under bond so it cannot be sold until our tests are completed.

Sixty percent of the toys sold in this country come from China. Many are imported through the port of Los Angeles. We have an outstanding relationship with U.S. Customs in Los Angeles. They are very good in working with us in screening those products. I can't tell you that we do catch every one of those products. We have a limited staff and there are many ports in this country. But as Customs officials in other ports see how successful our program is in Los Angeles, they adopt those programs in their ports and start looking at the products coming in.

Over the last year we looked at five different ports. We looked at the areas where imported toys are coming into this country and we identified five ports where most imported toys are coming in, and we worked with Customs at those ports to screen and identify violative toys. Toys are a very big program for the agency because children are a vulnerable population and are at risk for choking and death.

Ms. Kaptur. When you classify deaths or injuries, is there a way of taking a look between domestic and imported product? Do you prepare data in that way in your agency?

Ms. Brown. You must understand that U.S. industries have toys made abroad so even though you have companies based here much of it is made abroad. As long as we have someone to hold accountable, we have either the United States company who have made toys abroad or we have the importer who we can hold accountable. Or if the fireworks are made abroad or toys are made abroad, it is being able to hold someone accountable. Being able to impose civil penalties gives us some clout.

Ms. Kaptur. How do your voluntary standards impact on importers?

Mr. Schoem. The voluntary standards are met. As a practical matter, major retailers will not carry a toy that doesn't comply both with the mandatory and the voluntary standards.

We have sent staff to China and I have gone to China and spoken with them about the need to comply with mandatory standards and the voluntary standards. What the industry has done is they have gone beyond some of our mandatory standards. We have worked with them in developing voluntary standards so that the voluntary standards offer an increased level of protection, and we will monitor performance of toys' compliance, and if we find that the toys are violating voluntary standards, we will work with the company to recall that toy.

Major manufacturers of toys that are made abroad--Hasbro, Mattel, Fisher-Price--have very good safety programs to ensure that the products that they are importing comply with the mandatory standards. The problem is with the off-brand, smaller companies that don't have the same quality control as the Hasbros and the Mattels, and those are the companies that give us problems, and we target those at the docks. We have some companies that are repeat violators.

Ms. Kaptur. What countries are those from?

Mr. Schoem. China or the Far East. But we provide the U.S. Customs Service with a list of violators and they will look for those companies' products.

Ms. Kaptur. I thank you very much for those answers. We will have some follow-up questions in the record on that. Thank you, Mr. Chairman.

Mr. Walsh. Thank you, Ms. Kaptur.

That ends the portion of the hearing regarding the Consumer Products Safety Commission. I would like to thank Chairman Brown for her presentation, and the Commissioners and staff, and thank you for getting all of our members out today. It is a remarkable turnout. We will take a small recess and then we will have the Consumer Information Center.

[Recess.]

[Questions and answers from the first panel follow:]

Offset Folios 91 to 237 Insert here

Tuesday, February 23, 1999.

CONSUMER INFORMATION CENTER

WITNESSES

TERESA NASIF, DIRECTOR

BILL EARLY, DIRECTOR OF BUDGET FOR THE GENERAL SERVICES ADMINISTRATION

WELCOME TO CONSUMER INFORMATION CENTER

Mr. Walsh. The hearing will come back to order, and we have used up a lot of our allotted time already so I will defer immediately to Teresa Nasif, Director of the Consumer Information Center, and allow her to make an opening statement which, if she is prepared to summarize, we would be delighted. Your entire statement will go into the record.

Opening Statement

Ms. Nasif. Thank you, Mr. Chairman. Thank you for the opportunity to present the fiscal year 2000 budget request for the Consumer Information Center.

With me today is Bill Early, the Director of Budget for the U.S. General Services Administration. Mr. Chairman, we have been experiencing a revolution in the ways that Americans obtain and use information. During much of CIC's history, the public got Federal consumer information primarily by writing for printed publications from our facility in Pueblo, Colorado. Just 4 years ago, CIC was totally a mail order operation. All orders were received by mail and all information was distributed by mail, but with the dominance of computers and their emphasis on instant access to information, Americans are now relying less on printed materials, especially those ordered by mail.

To meet this challenge, CIC has reinvented the way it serves the public, moving from a concentration on the printed word to a larger vision of a central reservoir of information that can be assessed in a variety of ways. CIC continues to make it easy for citizens to get Federal information.

Specifically, last year we improved our toll free telephone

ordering service and at the same time added a publication ordering system to our expanded and improved website. Consumers can now place orders by calling the toll free number, 1 (888) 8 PUEBLO, while those with Internet access can visit the CIC website at www.pueblo.gsa.gov. They can then view the information online, copy it to their home computers or use CIC's secure online ordering system to place credit card orders for printed copies of the information. We have the full text of approximately 500 publications available online, along with Federal agency recalls, special notices, consumer news and links to consumer sites in the Federal and private sector.

Reflecting the Nation's new information environment, CIC's publication distribution has decreased from 8.3 million in fiscal year 1997 to 7.6 million in fiscal year 1998. During the same time, page accesses to CIC's website increased from 4 million to 6.5 million and CIC's toll free telephone system received nearly 300,000 requests.

We recently had a very dramatic example of how Americans are now choosing to obtain CIC information. In the February 7th edition, Parade magazine, mentioned an FDIC publication available from CIC and they listed the written address, and the toll free number and our website address. That is the first time that Parade has agreed to give all three methods of ordering. In the week following this Parade article, there were 3,500 people who chose to write for a copy of the book. There were 14,000 who picked up the phone and ordered a copy of the book, but there was an increase of 100,000 accesses to our website the week following, and it demonstrates that we are successfully fulfilling our mission mandate in the new information environment. Throughout any program transition, our goals and objectives remain focused on delivering to the public useful and reliable government information.

In keeping with the goal of delivering the best government consumer information, in fiscal year 1998 we updated and released the 1998-99 Consumer's Resource Handbook. The Handbook is a prime example of government empowering individuals to solve their own problems and answer their own questions by providing them with the best and most direct sources of assistance.

Published continuously since 1979, the Consumer's Resource Handbook is one of the most popular consumer documents ever issued by the government. We also produce the Consumer Information Catalog which lists hundreds of other popular titles on such topics as money management, health and Federal programs and benefits. Today I am pleased to present our newly redesigned Consumer Information Catalog, of which we have copies in the kits I will pass around. The kits also have various other publications of interest. The new catalog was just released this last Tuesday, and is now a 4-color publication with new graphics and new layout. We have easier ordering instructions and I think it is going to make it easier for people to order our information.

In conclusion, CIC will continue to meet the information challenges offered by the new century and our accomplishments will be measured by our successful research and identification of valuable Federal information, our media and our marketing programs, our centralized publication distribution system in

Colorado and our widely acclaimed website.

Mr. Chairman, we trust that the committee will look favorably upon our budget request for the fiscal year 2000, and I will be pleased to answer any questions.

[The information follows:]

Offset Folios 243 to 246 Insert here

DEVELOPING PUBLICATIONS

Mr. Walsh. Thank you very much for a very straightforward presentation.

Who edits or develops these reports and checks them for content and veracity?

Ms. Nasif. All of the publications listed in the Catalog are written by the particular Federal agency with expertise in that subject area. There are two publications we develop ourselves and one is the Consumer's Resource Handbook and the other is the Guide to Federal Government Sales. It was mainly because we could not persuade any Federal agency to take the lead on the latter that we decided to do it ourselves. Other than those two produced by CIC, it is the Federal agency with the expertise in a given area who does the developing.

We also have a cooperative publishing program where Federal partners will work with a private sector counterpart in a cooperative fashion to develop publications, but it is the Federal agency who has the final word on the content.

Audit of Publication Accuracy

Mr. Walsh. Has anyone ever requested or has there ever been implemented an audit on the accuracy or clarity or efficacy of these information brochures?

Ms. Nasif. I think there is an ongoing audit evaluation done by the agencies producing the information. Whether it is the National Cancer Institute or the Food and Drug Administration or the EPA or FDIC, they themselves have the wisdom and the knowledge and the know-how as to what is best to put in them and so we trust that level of expertise, and basically if it is produced by a Federal agency, we take it and run with it.

Mr. Walsh. I have some budget questions which I will submit for the record, and I will defer now to Mr. Mollohan.

Welcome From Mr. Mollohan

Mr. Mollohan. Thank you, Mr. Chairman. Welcome to the hearing. It is good to see you again. I appreciate your reminding me that I chaired the committee.

Ms. Nasif. It was the Spring of 1991, so for the fiscal year 1992 budget. It seems just like yesterday.

Sources of Funding

Mr. Mollohan. In many ways it does. I note that you are funded from a number of different sources--annual

appropriations, reimbursements from Federal agencies, user fees, private sector gifts--and all of that goes into your Consumer Information Center Fund; is that correct?

Ms. Nasif. That is correct.

Mr. Mollohan. The trend line suggests that in recent years your carryover has decreased significantly; and the information I have is in 1998 you carried forward \$1.087 million, which decreased to \$656,000 in 1999 and \$230,000 in the year 2000. At that rate you won't have any carryover soon. Do you agree with that trend line, and what are the implications of that trend line with regard to the necessity for you to have appropriated funds?

Ms. Nasif. This is an issue of prime concern to us and one we will be addressing in the budget request for 2001, which will be later this Spring. At that time it is our intention to evaluate all the sources of our funding as well as our level of administrative expenses to implement a strategy to ensure that we have adequate funding for the work that we need to accomplish in the year 2001. But I will say that the fund has truly been a blessing for the Consumer Information Center. When you established the fund in 1983 and gave us the flexibility to use user fees from the public---

Mr. Mollohan. I understand that, but I'm not sure that answers my question?

Ms. Nasif. It means that we are going to have to do some hard thinking when later this Spring we---

Mr. Mollohan. What is your thinking now when you project out the impact of this trend line on the necessity of your needing increased appropriation funding to meet your budget?

Ms. Nasif. That is certainly a possibility and one that occurred about 8 years ago for fiscal year 1992, the year that you chaired, as a matter of fact. We came in that year for an increase of \$400,000, because the fact was that while it is wonderful that we could use the user fees and the unobligated balances, our administrative expenses had outstripped the level of income. Similarly, now we have an appropriation of \$2.6 million and administrative expenses of \$3.4 and that shortfall is covered by these other sources of revenues.

So in preparing for fiscal year 2001, an increase of appropriation is one possibility. Increased use of reimbursements from the agencies is another. Strategies to try to increase user fees is another, and certainly trying to control and reduce administrative expenses is another.

Mr. Mollohan. Are you looking at all of these?

Ms. Nasif. Yes, we are.

Mr. Mollohan. Are you developing strategies to increase funding from all of those areas potentially?

Ms. Nasif. We are looking at all the possibilities because we are very aware of the \$230,000 balance, whereas we were using \$431,000 and \$426,000 in fiscal years 1999 and 2000.

Changes In Acquiring Information

Mr. Mollohan. Regarding the shift from the traditional ways of acquiring this information, (impressive in one way but perhaps ominous in another), as you described in your opening remarks of using Parade--you had 3,000 mail responses, 14,000

phone and 100,000 website hits?

Ms. Nasif. Accesses.

Mr. Mollohan. And you do charge for the mail and phone, but not the website?

Ms. Nasif. If the phone order comes in as a request for a printed copy----

Mr. Mollohan. You charge for that. If that same information is pulled off the Web, the person has it free?

Ms. Nasif. That is right. It was an interesting dilemma for us back in 1995 when we were looking at our mandate to disseminate information to the public: Do we put up the full text of every publication? We knew that once we did that, the demand for the printed publications would decrease and that, in fact, has happened and yet we are achieving the mission mandate in ways not possible just a few years ago.

Mr. Mollohan. I have some questions that I will submit for the record in cooperation with the Chairman's time constraints.

relationship to gsa

Mr. Walsh. Thank you. Mr. Wicker?

Mr. Wicker. What is your relationship with GSA?

Ms. Nasif. It is our administrative parent agency. We were established by executive order in 1970, and it was a logical place for us to reside because GSA provides services to Federal agencies. And it was felt that the Consumer Information Center, by assisting agencies to promote and develop and distribute information, was an additional administrative service as well. So we have been in GSA since 1970 and they provide us with administrative support and counsel and guidance, and it has been a good home for us for the last 30 years.

maintaining current information

Mr. Wicker. You are more or less a clearinghouse. Do you have any mechanism for maintaining the currentness of the information or do you simply rely on the various agencies to provide you with current information?

Ms. Nasif. We do rely on the agencies, but our Catalog comes out 4 times a year so every 3 months we review the content of the publications and the demand and the stock, and we are able to continuously review the offerings of the printed materials.

Also now that we have information online, agencies can update their information at any time. The Consumer's Resource Handbook which we manage, as telephone numbers or any kind of information change, can be updated continuously, so the information online in some ways is more up to date than the printed information.

Our Catalog comes out 4 times a year, but if an agency says, ``Pull that publication, it is no longer accurate,`` we can stop distribution of it very quickly.

Mr. Wicker. Thank you.

Mr. Walsh. Okay, Mr. Wicker. Mr. Sununu?

sources of funding

Mr. Sununu. Thanks for coming in. You talked about sources of funding. Obviously there is an appropriation request of \$2.6 million, and how much do you receive for reimbursements and how much do you receive from private sector contributions as well?

Ms. Nasif. Reimbursements that we receive from the Federal and private sector partners will amount to about \$3 million.

user fees

Mr. Sununu. Combined?

Ms. Nasif. Yes. It is outlined on page 6 of our justification. Also, user fees are charged to the public when they order free publications. Last August it was increased to \$2; in fiscal year 1998 we received \$229,000, and we are projecting user fees of \$350,000 in 1999 and the year 2000.

Mr. Sununu. Two dollars to whom?

Ms. Nasif. When the public receives our Consumer Information Catalog and they decide to order any number of free publications, there is a user fee. It is \$2, and they can order as many free publications as they want for that \$2. This revenue goes into the CIC Fund to help offset administrative expenses.

Mr. Sununu. So it is a one-time fee for access to all of the free publications?

Ms. Nasif. That is correct.

sales publications

Mr. Sununu. What about the ones with a 50-cent fee associated with them?

Ms. Nasif. There is no user fee attached if they ordered sales publications.

Mr. Sununu. So there is a \$2 charge for the free publications.

Ms. Nasif. It is a good value. You can get as many free publications as you would like.

Mr. Sununu. That is a good value. How do you decide which are free and which are--I saw 50 cents. Do they vary all over the map?

Ms. Nasif. Yes. When we go to the publishing agency it is up to them whether they would like to offer the information free to the public. If that is the case, they are assessed the postage and handling costs borne by the Pueblo, Colorado facility. So an agency, if they want to offer something free, will pay for the printing and also pay for the postage and handling. If an agency doesn't have that much money available to support the publication, they can also make it a GPO sales document where GPO sets the price of the publication and those typically are the books priced at \$1 or \$2 in the Catalog.

Mr. Sununu. So the agency puts up the cost for distribution and printing or GPO sets a price for the publications.

50-cent publications

Ms. Nasif. Yes, and a third possibility is if they have some money available for printing but do not have the money to pay for the distribution, it goes into the 50-cent program

where we collect 50 cents from the consumers to cover the postage and the handling.

Generally speaking, when there is no charge for the publication, more copies are distributed. So it is an agency decision that they make according to its budget.

Mr. Sununu. In practice is it less complicated than it might sound here? Is it efficient?

Ms. Nasif. It probably does sound complicated, but we give agencies lots of choices when they join our program, and we give them choices according to the impact on their budget. They also have the choice to give us information that will go straight to our website.

web accesses

Mr. Sununu. How many Web hits were there?

Ms. Nasif. There was an increase of 100,000 Web accesses the week following the Parade mention. Normally we would receive 150,000 a week and that week we got 250,000.

Mr. Sununu. There is a number here, 6.5 million page accesses.

Ms. Nasif. That is for the entire year. A hit would be each visit. A page access is more conservative.

Mr. Sununu. Is a page literally a page?

Ms. Nasif. It is. Whereas a hit, if it was a graphically rich page, might count as 3 or 4 or 5 hits.

Mr. Sununu. Good. That is more accurate.

cic web server

Do you keep your own server, your own website?

Ms. Nasif. Yes. It is maintained by GSA, which is one of the benefits of being part of a larger agency.

Mr. Sununu. Where does it physically reside?

Mr. Early. It is in our GSA building here in Washington, DC.

Mr. Sununu. Have any concerns been raised about its year 2000----

Ms. Nasif. It is year 2000 compliant.

Mr. Walsh. Thank you. Mr. Freylinghuysen.

members' imprinted catalogs

Mr. Frelinghuysen. Good afternoon. I will submit some questions for the record but let me compliment you on the inclusion of Mr. Walsh's mugshot in the pamphlet.

Mr. Walsh. I would have done that, too, had I seen it.

Ms. Nasif. It is in your kit. It is a letter that we send every year to all the members offering them the Consumer Information Catalog and copies of the Consumer's Resource Handbook. And because Mr. Walsh had the wisdom of imprinting our Catalog, we included a copy of his Catalog in each member's package.

Mr. Walsh. Yes, I did that at last year's hearing.

medical privacy and credit card hazards

Mr. Frelinghuysen. Thank you for doing it for me as well, and I will submit for the record my continuing interest in whether you have updated materials that relate to medical privacy issues, because I think last time your pamphlet was based on the Federal Privacy Act of 1974, which I assume there may have been some changes to that, and also a question relating to how current your pamphlet is relative to credit card hazards at home and abroad. I am sure those are two subjects that you spend some time on.

Ms. Nasif. Yes. Thank you.

Mr. Frelinghuysen. Thank you.

rent charged by gsa

Mr. Walsh. Thank you. Mr. Hobson.

Mr. Hobson. I will submit the questions that I have for the record, but I am concerned about your share of the budget which looks like about an 18-percent increase over 3 years, and I have some things on rent and print costs. But I also have a question for Mr. Early, since he is here on a previous testimony and since GSA is here and I want to send some messages to GSA anyway.

As I understand it, the Consumer Product Safety Commission got an increase of \$240,000 in their rent this year from GSA, which was imposed on them after they had gone to OMB, and it doesn't include any increase in space. They had already increased rent costs \$126,000, so the total rent increase by GSA to the Consumer Product Safety Commission was \$366,000. I don't understand why that is, why that happened, why there is not an increase in space. So I am sending a message to GSA ahead of time: I think that agency needs to act more like a private sector agency.

I don't understand how you can increase somebody's rent when they didn't get any more space and you don't justify it to them. Somebody renegotiated for them. This is a message that I tried to send a couple of years ago and continue to try to send about GSA and the outlandish rents that they charge and how they charge them. The whole process is antiquated and needs to be reviewed and updated. So, there is a message. You don't have to answer the question now unless you care to.

Mr. Early. I will look into it and get more information for you.

Mr. Hobson. You understand the \$240,000 increase with no increase in space and they already increased their rent in their proposal by \$126,000.

Mr. Early. In regard to your comment about trying to modernize the rent-setting process, GSA has been doing that in the last year, and some of the results are these dramatic changes for some selected agencies. GSA is charging commercial equivalent rent for the space. The rates have been capped for a number of years.

Mr. Hobson. Someone needs to look at the rent for commercial space and the rent for GSA. When people come in here, they are paying high cost per square foot for space, and many times they tell you that they don't have any choice. They would like to go elsewhere. They have the idea, or it is said to them that they don't have any choice. I have a lot of

concerns about the operation of GSA.

Mr. Early. We will look into that.

Mr. Hobson. Thank you, Mr. Chairman.

other questions

Mr. Walsh. Thank you, Mr. Hobson. Are there any other questions of our witness?

Mr. Mollohan. I have some for submission.

questions from the chairman

Mr. Walsh. I also have questions that we will submit for the record, and I thank you very much for your testimony.

conclusion

Ms. Nasif. Thank you.

Mr. Walsh. We will take a very brief recess and then we will be ready for the IG for FDIC.

[Recess.]

[Information received from panel two follows:]

Offset Folios 264 to 310 Insert here

Tuesday, February 23, 1999.

FEDERAL DEPOSIT INSURANCE CORPORATION

WITNESS

GASTON GIANNI, INSPECTOR GENERAL

Opening Remarks

Mr. Walsh. Our final panel this morning is on the budget for the Office of Inspector General for the Federal Deposit Insurance Corporation. The committee welcomes Mr. Gaston Gianni, the Inspector General.

The budget request for the Office of Inspector General for fiscal year 2000 is \$33,666,000, a decrease of \$1 million. Mr. Gianni, if you would like to summarize your statement, we will include your entire statement in the record, and feel free to introduce your capable staff.

Mr. Gianni. Thank you. To my right is Pat Black, my counsel, and to my left, your right, is Rex Simmons who is my Assistant Inspector General for Management and Policy.

It is a pleasure to be here with you today and I will summarize my statement. I appreciate the opportunity to present the Federal Deposit Insurance Corporation Office of Inspector General's fiscal year 2000 appropriation. This is our third time being an appropriated office, and we are requesting \$33.7 million or \$1 million less than our fiscal year 1999 budget. This is a reduction of about 2.9 percent. Like prior FDIC OIG budgets, the funds will be derived from the Bank Insurance Fund, the Savings Association Insurance Fund, and the FSLIC-RTC

Fund. OIG, along with the Corporation, is continuing along a downsizing plan.

In January 1996, OIG had 370 staff. In addition, we had approximately 150 contractor equivalent staff to supplement our work.

Our proposed funding is for 231 staff in fiscal year 2000 and this level is less than half that for fiscal year 1996. During fiscal year 1998, OIG work resulted in \$50.7 million in total or actual monetary benefits to the Corporation. Also during this period we made 165 nonmonetary recommendations to improve the controls and operations of the Corporation. We opened 102 new criminal investigations and closed 133 cases. Our investigations resulted in 26 indictments, 21 convictions, 53 referrals to the Justice Department, 9 employee disciplinary actions and 3 contractor actions.

As you know, FDIC has enjoyed a long history of success from a wave of bank failures of the Great Depression to managing the failure over 1,600 depository institutions during the period from 1980 through 1994. The Corporation has provided protection for bank depositors. While the Banking Insurance Fund reported net operating losses of \$25 billion from 1988 to 1992, currently BIF and SAIF have accumulated the largest reserve in history, approximately \$39 billion.

Given the overall stability of the banking system in more recent years, FDIC is now shifting its focus to monitoring and assessing the existing and emerging risks to the insured deposit system. We continue to work in partnership with the Corporation to address these risks.

Our work is concentrated in the following areas: Y2K issues, supervision of insured institutions, maximization of returns from failed institutions, oversight of contracting activities, and carrying out the FDIC mission with a downsized staff.

In addition, we will continue our partnership with the General Accounting Office for conducting the Corporation's annual financial audit statement and our partnership with other financial regulatory IGs to coordinate our work on Y2K issues and to review how Federal financial regulatory agencies coordinate their respective work.

Also, we will continue to monitor the implementation of the Corporation's strategic and annual plans prepared in accordance with the Results Act. In addition, we will continue to build on our success in proactively providing management evaluation services to the Corporation.

Before I close, I would like to turn to the internal operations of my office. I am committed to continuously enhancing our effectiveness and our efficiency. Towards that end, we have initiated a number of efforts to better ensure that we meet the goals laid out in our strategic and annual performance plan.

In closing, I want to thank the subcommittee for its support of our operations and I look forward to working with you and the subcommittee during the coming year. I would be happy to answer any of your questions at this time.

[The information follows:]

Offset Folios 316 to 332 Insert here

independence of the oig

Mr. Walsh. Thank you very much. As you mentioned, this is the third year that your budget was appropriated as opposed to being approved by the FDIC Board. The idea was to provide you with more independence. Can you confirm that is happening?

Mr. Gianni. Yes, sir. When I first arrived here, we prepared and submitted our budget for approval by the Corporation. At my confirmation hearings in the Senate, the Senate Banking Committee asked me to look into this matter. All of the presidentially appointed IGs had greater control over their budgets. So working with OMB we started a process whereby we now come to the Congress to have an annual review of our budget. And I think it is working nicely.

Mr. Walsh. How would you say that we might be aware of the difference in your status?

Mr. Gianni. In one sense, it takes my office out of direct Corporation control and influence. We now have an independent review of our budget request by Congress; whereas if my funds were totally under the control of the Corporation, one could make the case that I was less independent and that my decisions were being influenced because I was trying to placate the whims of the Corporation.

oig staffing

Mr. Walsh. Your budget proposal indicates a total number of staff as 231. That is a reduction of 10. Following the merger of the Resolution Trust Corporation employees with FDIC in 1996, the office had been staffed to 370. How has your workload changed from 1996 to justify such a significant reduction in staff levels?

Mr. Gianni. At the time of the merger, we had a lot of liquidation work carried over from the RTC where we were trying to manage and sell the assets from the failed institutions. That work has come down substantially. The Corporation had about \$4 billion in inventory at the present time. We are still doing some work in those areas, but that is where most of the work has come down.

In addition, during that time we had a lot of work reviewing contracts or legal fee service bills from law firms helping the Corporation and the RTC wind down the failed institutions. We had a backlog of work in this area that has been completed. Now I think our work is more stable and we are able to spread our remaining resources a little more evenly over the Corporation to help ensure that things are going in the right direction.

Mr. Walsh. Do you have any concern at all that the reduction in funding and personnel places any risk, any additional risk on the safety and soundness of the FDIC Corporation?

Mr. Gianni. At the present time, I feel comfortable with the staffing and the funding that we have been able to request.

Mr. Walsh. Y2K. In your capacity as Inspector General, do you agree with the assessment of the Chairman of the FDIC that 97 percent of the banking industry is on schedule?

Mr. Gianni. Let me see if I can expand on that. Certainly the Corporation is in the process of visiting banks. This is a very critical stage of the testing phase which will carry on through the end of March.

We are monitoring that activity, and the Y2K initiative is the highest priority within the Corporation. As we monitor the Corporation's activities, we are identifying areas where we think the Corporation can strengthen its process and we are providing that information to the Corporation as fast as we can so that they can take action on it. They have been very supportive of that process.

Mr. Walsh. You don't want to say 97 percent?

Mr. Gianni. I can't attest to the 97 percent figure.

Mr. Walsh. Would you guess that it is higher or lower than 97 percent?

Mr. Gianni. Given what we are seeing in our work, it is the best estimate the Corporation has at the present time. If I were to guess, I would say that it might be a little bit lower but I can't quantify that.

Mr. Walsh. Ninety percent?

Mr. Gianni. I can't quantify based on what we have. We are still going. The process is still going, and the Corporation is visiting these institutions on a regular basis. We just think that they need to do a little bit of strengthening of their process.

Mr. Walsh. In the event that a dispute arose in the middle of this year over how far along they were between you and the FDIC, how would you make the Congress aware of that?

Mr. Gianni. First of all, we would bring that issue to the Corporation and at the same time we would bring that to the congressional oversight committee monitoring Y2K.

Last year we had testimony before the House Banking Committee on Y2K issues, and I understand that they might have another hearing as the year progresses, and we will be willing to participate in that process.

Mr. Walsh. I have several other questions that I will submit for the record.

Mr. Mollohan.

Mr. Mollohan. Mr. Chairman, I would like to especially welcome Mr. Gianni to the hearing today. He is from Weirton, West Virginia, one of the outstanding communities in my district.

Mr. Walsh. A West Virginian.

Mr. Mollohan. He still has a lot of relatives who live there.

Mr. Gianni. And they are voters.

Mr. Walsh. Great wisdom in West Virginia legislators.

Audit Plan

Mr. Mollohan. How do you choose your targets for audits and reviews? Do you have some way of prioritizing them?

Mr. Gianni. We have what we call a risk focus, and on an

annual basis we review all areas within the Corporation to decide which areas we think present the most risk and whether they have been looked at in recent periods of time, 3 to 5 years. And so given that, we come up with an inventory. It is called our annual work plan. As part of that process we reach out to the Corporation and invite them to make suggestions for potential audit areas.

Once the plan is put together, we distribute it to the Corporation and that then forms the basis for deciding which areas we review. I want to make sure that our resources are spread across the organization and into major areas. And so we have the information technology team that looks at information technology issues. We have a team that focuses in on supervisory, bank supervision and consumer affairs type issues. We have a team that focuses in on contract administration, and asset liquidation is another area. So we kind of spread our resources across the Corporation to give us some degree of comfort and to provide some value back to the Corporation.

Mr. Mollohan. In keeping with Mr. Chairman's desire to move this hearing along, I ask to submit my questions for the record.

Mr. Walsh. Without objection.

Tom, did you want to make a request of order?

Mr. DeLay. I would like to go out of order because I have a meeting with the Speaker in about 10 minutes.

Mr. Walsh. If there is no objection, and I don't anticipate any.

Mr. DeLay. Thank you. Nice to meet you, sir.

Mr. Gianni. Good afternoon.

Mr. DeLay. I am very interested in follow-up with the question that Alan is talking about. When you look to begin your work plan, do you look into actions by the FDIC that they may have taken that are either not in their statutory authority or beyond what the law gives them authority to do?

Mr. Gianni. Up to this point in time, we have not looked into any situation like that. When these situations come to our attention, obviously we try to work that into our plan.

But at this point in time, and in fact you can correct me if I am wrong, I don't believe that we have identified any of those type situations.

Legal Claims

Mr. DeLay. I am going to help you, because it has come to my attention and I want to bring it to your attention, that the FDIC may have made decisions to pursue legal claims against private individuals which the FDIC knew were not likely to succeed on their merits. How common is it for the FDIC to pursue claims against a person or a company when both the FDIC's outside and internal counsel conclude that the suit has only a marginal, at best, chance to succeed?

Mr. Gianni. That seems to fit outside the norm of what the current decisionmaking practices are within the Corporation.

We are in receipt of your request in this particular area, and did like to make several points. Ordinarily, when a matter is in the judicial system, litigation, most IGs don't get involved in the litigative process. However, in this particular

case, we have asked the Corporation to provide us information so that we can begin to assess the decisionmaking process leading up to going into court.

At this point in time, we have not received any of that information however, the Corporation is pulling that information together.

Mr. DeLay. Is it not the case for FDIC in making that decision they have basically two criteria before proceeding: One is the likelihood of success in bringing litigation and the other is cost effectiveness?

Mr. Gianni. I believe the first decision is whether they think there is some criminality or merit in the matter. Then they consider the cost effectiveness of pursuing the matter as the second part.

Mr. DeLay. While you are looking at this, and obviously you cannot answer my question today but you can provide it for the record, can you also answer the question of how many times has the FDIC made this kind of decision, in what specific suits they have made a decision this way, and what has been the FDIC's rationale for taking those kinds of suits, if you could?

Mr. Gianni. We plan to take the period of time in which this decision was made and making a comparison with other decisions during that period.

Mr. DeLay. And in doing this, you would find if in this case the FDIC has violated its own internal policy guidelines?

Mr. Gianni. Right.

FDIC Legal Authority

Mr. DeLay. It has also come to my attention, and it is referenced in the letter that I sent you, that the FDIC may be involved in a new method of procedure in this administration, and that is taking one action to affect another action that has nothing to do with FDIC authority.

Has the FDIC done this in the past, and how many times has it done it? Is this a new policy by this administration of bringing a suit against a person or a company in order to affect something that is way outside in some other department, some other agency? In other words, to bring pressure on that individual or company to make a decision that has nothing to do with the oversight or the authority of the FDIC?

Mr. Gianni. I am aware of the concern surrounding the situation. At this point in time, I have no information to answer the question, but we certainly are going to look into that.

Mr. DeLay. I am glad to hear that. Thank you, Mr. Chairman.

Mr. Walsh. Thank you, Mr. Delay. Mr. Wicker?

Mr. Wicker. No.

Mr. Walsh. Mr. Sununu.

Mr. Sununu. I will submit any questions I have in writing.

Mr. Walsh. Thank you very much.

Mr. DeLay. By the way, I have other questions for the record.

Mr. Walsh. Without objection. Mr. Frelinghuysen.

Know Your Customer Rule

Mr. Frelinghuysen. The Members of Congress need to know about the proposed, so-called ``Know Your Customer'' rule. I am not sure that we need to dwell on it, but all hell has broken loose. I assume that you have an opinion and some involvement, perhaps not in developing the rule, but perhaps reacting to it.

I have a stack of e-mails here from people saying, What is going on? This is, I think, a concern to our committee and to many constituents. I would like a response.

Online Banks

Secondly, I would like to know, since I understand you have approved the creation of some new online banks. What does that mean in terms of FDIC oversight? I will put a question in the record as to that point as well.

Mr. Gianni. We would be happy to answer those.

Mr. Frelinghuysen. Thank you, Mr. Chairman.

Know Your Customer

Mr. Sununu. Mr. Chairman, if I might ask, I would be interested to hear at least a brief response to those two questions.

Mr. Gianni. As you are aware, the ``Know Your Customer'' has caused a high degree of interest within our country. The Corporation has received unprecedented response to that. I believe the last count was over 25,000 respondees to it.

I have not looked at the proposed rulemaking. As I understand it, many of the regulatory agencies now are of the opinion that they are going to rethink how that regulation should be implemented from a standpoint of what they were trying to achieve. There might have been some problems on the ``how''; the ``what'' they were trying to achieve is certainly to implement the Bank Secrecy Act provisions. So now everybody realizes they have to go back and rethink how they are going to accomplish those provisions.

Mr. Sununu. What is the next step for the Corporation?

Mr. Gianni. I believe that the comment period ends in the middle of March. Once that happens, the Corporation will go back--and actually this is larger than just the Corporation. They will be working with their fellow regulators in the Fed, OCC and OTS to kind of figure out the next step on this.

Mr. Sununu. It is their intent to take into consideration all of these comments?

Mr. Gianni. Yes, sir.

Mr. Frelinghuysen. Mr. Chairman, I do think that the FDIC needs to get back to us on the Hill in a more formal manner and maybe lay out some steps. We obviously have a lot of anger out there and logistical problem in terms of a timely response to our constituents. And, of course, if there is no timely response from you, we can count on a lot more angry letters being generated. Thank you.

Mr. Walsh. This hearing is adjourned.

Mr. Gianni. Thank you, Mr. Chairman.

[Questions and answers received from panel three follow:]
Offset Folios 349 to 394 Insert here

Wednesday, February 24, 1999.

U.S. CHEMICAL SAFETY AND HAZARD INVESTIGATION BOARD

WITNESSES

PAUL L. HILL, JR., PH.D., CHAIRMAN AND CHIEF EXECUTIVE OFFICER
CHRIS WARNER, GENERAL COUNSEL
DR. PHYLLIS THOMPSON, CHIEF OF STAFF

Opening Comments of Mr. Walsh

Mr. Walsh. The hearing will come to order. We welcome the Chemical Safety Hazard Investigation Board this morning. First up will be Mr. Paul Hill, Dr. Hill.

Budget request is \$12.5 million and represents a \$6 million increase above the 1999 appropriated level.

I should note at this point that the Chemical Safety Board operates pursuant to a unique provision in the Clean Air Act which requires that the board simultaneously submit its budget request to Congress and the OMB. Although interpreted differently by OMB, the board believes this statute does not afford OMB the opportunity to change the request it submitted to Congress.

Nevertheless, just to clarify any potential confusion on this issue, budget documents submitted to Congress by OMB has listed the Board's budget request at just \$7.5 million, an increase of \$1 million above the 1999 spending level.

Testifying this morning on behalf of the Board is Chairman Dr. Paul Hill. Dr. Hill, this is the second time you have testified before the committee and we wish to welcome you back. In a moment I will ask you to introduce those colleagues who are accompanying you this morning and then ask you to summarize the statement, as you see fit.

Your prepared statement will appear in full in the record but before doing so, I would like to ask my colleague, the ranking member Alan Mollohan, for any comments that he would like to make.

Opening Comments of Mr. Mollohan

Mr. Mollohan. Thank you, Mr. Chairman.

Nothing more than to especially welcome Dr. Hill. This is the second day in a row we have had a West Virginian testify before a subcommittee.

Dr. Hill, I want to welcome you. You are doing a good job and you have certainly made everyone in Charleston, West Virginia proud of the job you are doing.

Also I commend, Mr. Chairman, Congressman Bob Wise, who was very instrumental in conducting this activity with Dr. Hill and the setting up of the Chemical Safety and Hazard Investigation Board. He comes from an area that is heavily dependent upon the chemical industry for its economic base, as do I and all West Virginians, so he was particularly interested in this activity, in this area, as was Senator Byrd, who supported the effort.

So this board has a lot of West Virginia fingerprints all over it and we are very proud of it. So I would like to welcome Dr. Hill. Thank you.

Mr. Walsh. Thanks for your comments. He is always very partial to West Virginians. I am not sure why.

Mr. Hill. I think we are just like that.

Mr. Walsh. Well, let us see.

Dr. Hill, your agency is, of course, very new and going through significant growing pains. Why do you not go ahead and give us your comments and then we will give ours.

Oral Testimony of Mr. Hill

Mr. Hill. Thank you, Mr. Chairman and Mr. Mollohan. It is certainly a privilege to appear before the subcommittee today to discuss the \$12.5 million fiscal year 2000 budget request of the Chemical Safety Board.

Joining me today on my right is Mr. Chris Warner, who is my chief counsel, and Dr. Phyllis Thompson, who is my chief of staff and chief operating officer.

Also in attendance today is Dr. Jerry Poje, who is a member of the board, as well as Dr. Irv Rosenthal, who is in the back and is also one of the board members.

Mr. Chairman, in 1996 there were about 60,000 chemical incidents in the United States and there were about 60,000 incidents the year before and the year before that and the year before that. In fact, there were an average of 60,000 incidents in commercial and industrial chemical incidents in each year between the years 1987 and 1997. But last year, when I appeared before this subcommittee, no one knew that. Not you, not the CSB, not the EPA, not the OSHA, no one.

In 1996 chemical incidents claimed the lives of the equivalent of two fully loaded 737 passenger jets. That is 256 people who perished. An average of 256 people died the year before and the year before that and above that. But again last year, when I appeared before this subcommittee, no one knew that, either. Not you, not the CSB, not EPA or OSHA, no one.

My written testimony, which I have submitted for the record, as you just referred to, goes into great detail about the budget and our accomplishments of the CSB during the past 14 months that we have been in existence, accomplishments of which I am extremely proud.

Of course I am prepared to discuss with you any of the material covered in my written testimony, including our accomplishments of taking on nine full accident investigations and 21 reviews, our safety recommendations and the impact that those are having, our partnerships with others and the challenges that we have faced.

But rather than summarizing the entire written testimony, I want to take an opportunity to summarize the importance of what we have learned and the critical nature of that knowledge as it relates to the resources that we currently have and what we are asking for.

If this were a new story about our situation, the headline might say ``Frequent occurrence of U.S. chemical incidents overwhelms new safety board: agency needs additional resources.''

But before you rush to the conclusion that I am about to criticize the Congress for not providing the necessary resources to the CSB, let me hasten to add: none of you, indeed no member of Congress, could have known just how much money or how many personnel were needed for the CSB to do the job that the agency was created for because no one really knew. Until today, the depth and breadth of the problem was unknown.

Indeed when I came before you last year I told you that anecdotal information that we had developed in our first two months of operation seemed to indicate that the frequency of serious chemical accidents was much greater than we might have expected. But in February of 1998 I had no proof. But proof of the exact extent of the national chemical incident problem is precisely what you as appropriators must have in order to decide the appropriateness of the funding levels for the Chemical Safety Board.

Chemical Incident Data

Indeed, you must know how bad the situation is so that you and the rest of the Congress can decide upon the funding for the 14 other federal agencies which exercise various types of responsibilities related to chemical safety in the United States. Many of those agencies, including EPA, OSHA, the Department of Transportation, and the U.S. Fire Administration, collected data but they did so for their own statutory and regulatory purposes. None projected what I call the big picture.

But even when producing such a big picture of chemical incidents was considered at the urging of the Congress, the task was abandoned. The EPA said in 1993, ``Full merger of existing databases has been ruled out as being not realistic, feasible or preferable.''

I beg to differ because today, at this hearing, I am able to share with you, this subcommittee, for the first time anywhere, the preliminary results of an unprecedented CSB analysis of federal government incident databases.

There are five of these. The CSB has identified over 600,000 chemical incidents in transportation and in industrial and commercial businesses over the past 10-year period between 1987 and 1997. That is an average of 60,000 incidents per year. During this period, chemical accidents were recorded in almost every single county in the United States, as you can see in Exhibit C.

During that 10-year period, 10,000 of these accidents were associated with at least one death or injury. Expressed another way, on the average each year, 256 people die as a result--again that is equal to two fully loaded 737 passenger jets.

With this new CSB data we can now identify the states which have experienced the largest number of incidents. California, as you can see in the exhibit, leads the list with more than 100,000 incidents during this time frame. Texas is second with more than 55,000 incidents, and the top 15 states, as you can see, include over 380,000 separate chemical incidents.

While these numbers are startling, they do not necessarily tell the whole story and they indeed may be misleading. For a variety of reasons, many chemical incidents that occurred over

those 10 years never made it into the national records.

Since there has been no coordination done between government agencies during the development of individual databases, the existing databases lack consistency in both completeness and in the nature of the data collected. Future CSB actions will address this problem and you may expect recommendations from us as a result of our analysis.

Most importantly from a safety standpoint, existing databases do not contain information on the root causes of accidents or incident patterns, and causes are the most solid clue to prevention. That is really what we need.

Despite these limitations, existing data confirm that the problem of chemical safety is large, widespread and not fully understood at the national level. In particular, phase one of our study is in agreement with similar conclusions that have been reached by industry, labor, environmental groups and public safety leaders that have separately reached this same conclusion.

Limited Financial and Personnel Resources

Mr. Chairman, I find myself with a predicament. I have very limited resources and I must make very difficult decisions about how to use those resources, even when human lives are lost. For example, you recall that a couple of weeks ago a major explosion ripped through the Ford Motor Company River Rouge plant in Dearborn, Michigan. Six workers have now died and others remain in critical condition. Hundreds of workers were briefly furloughed. Production at other Ford plants was threatened. Millions of dollars in property damage occurred. Yet I could not send an investigation team to Dearborn because of the overall investigative costs involved.

Last Friday night at 8:25 an explosion leveled Concept Sciences, Incorporated in Allentown, Pennsylvania. Five people perished in that blast. County officials estimate property damage to the 11 businesses in the industrial park at between \$4 and \$5 million. Based on the initial information from officials over the past weekend, I dispatched a preliminary assessment team. But although I was able to get a preliminary assessment team to assess the incident scene, ultimately I may not be able to order a full investigation there, either.

Last night while preparing my remarks for today, I learned of a refinery accident at the Tosco Avon Refinery in Martinez, California. I spoke with Congressman Miller's office, again conveying that this was a serious tragedy. We understand there are fatalities. Information is still coming in, but this is only four days after the Pennsylvania incident and again I am unable to respond appropriately.

So I may have to tell the families of those who perished in Dearborn and in Allentown and in Martinez and in all the other locations where the CSB investigations will not be conducted that we will not find out why they died and we will not find out how to keep these incidents from happening again, perhaps in your own districts.

This agency was given \$4 million in its first year to begin an anticipated start-up period and gradually grow according to our business plan and the evaluation of our needs by the

Congress. That initial \$4 million CSB budget was \$500,000 less than our sister agency, NTSB, spends each year to store the wreckage of TWA Flight 800. As you will see in the exhibit in my written testimony, our current appropriation is \$49 million less than NTSB's was in fiscal year 1999.

You will note that our budget is also significantly less than the Defense Nuclear Safety Board, a board which conducts no investigations of its own and which is responsible for only a small number of DOE nuclear facilities.

Even with an incomplete accident picture in 1990, the Senate report on the CSB included an authorization for \$12 million for each year of fiscal year 1990 through 1994. A decade later that would be more than \$15 million in today's dollars.

As I said before, I do not fault the subcommittee or the rest of the Congress for providing us with what now proves to be wholly inadequate resources. We did not know the extent of this problem. Our sister agencies did not know. And, of course, you did not know. But now you do.

When the Congress created the CSB in 1990, it identified a lack of national focus on chemical safety, saying, ``actually prevention has great promise, but is not given sufficient attention in the current federal programs.''

The CSB was established to fill a national void on chemical safety issues. The CSB's powers and responsibilities differ greatly from that of other agencies to which we are most often compared--EPA and OSHA. As you can see in Exhibit F, there are quite a number of critical differences between CSB, EPA and OSHA.

The CSB is, in effect, a sort of chemical safety General Accounting Office. The special independence of the CSB enables it to enhance chemical safety by looking at both the adequacy of federal regulatory and statutory performance and also at labor, industry and environmental practices affecting chemical safety.

Mr. Walsh. Dr. Hill, could I ask you to summarize? We have two additional organizations coming in today and time is limited. I hate to do that.

Mr. Hill. Certainly. I am right near the end.

No other agencies really have this type of mandate. But if the Congress only approves the \$7.5 million request, then certainly our work will be diminished. We will not be able to provide the type of activities that we have laid out in this plan, that have been laid out in my testimony today, and certainly our ability to do the job that Congress put before us will be diminished.

I ask the members of the subcommittee to examine the challenges before us, before the entire Congress, before the Safety Board, in light of the information that I have put forward today. And we would be glad to answer any of your questions.

[The information follows:]

Offset Folios 407 to 462 Insert here

Mr. Walsh. Thank you very much.

Mr. Hill. Thank you, Mr. Chairman.

Mr. Walsh. I would like to recognize the presence of our two newest members, Anne Northup of Kentucky--glad to have you with us.

Mrs. Northup. Glad to be here.

Mr. Walsh. And Bud Cramer of Alabama.

Mr. Cramer. Thank you.

Mr. Walsh. Who is also here.

And the process that we established yesterday, Anne, was that I will begin with whatever questions I have and then we will go in the order that people come in. And since you are both here, you will go and we will have lots of opportunities because nobody else is here.

Dr. Hill, thank you for your statement.

the growth of the agency

Your agency is, of course, very new and I know that you are going through significant growing pains. There is a desire to gear up to what you refer to as fully operational as quickly as possible, while Congress, frankly, has attempted to control your growth until we get a better fix on where you are and where you are going.

I know that you and your staff have responded in one form or another to multiple accidents and I can certainly understand and appreciate the fact that you and your staff have committed more than your share of hours to the work at hand.

Experience such as that observed at FEMA might suggest that additional dollars and staff will not necessarily resolve this problem of overwork. Rather, the Congress and perhaps OMB as well have in the past suggested that what we want to see you do is make thoughtful, considered, measured judgments with respect to your growth.

While I do not want to prejudice this committee or the Congress in any way with respect to your budget, it appears that you may be more eager to grow before you have truly given us a glimpse of what you can do and will do.

What are your thoughts? How would you respond, if you would like to?

Mr. Hill. Yes. Mr. Chairman, I think we came into this process saying that we would not approach the Congress and ask for a large sum of dollars to do the job all up front in the very first year. Rather, we developed a phased-in process in our business plan to suggest it would be very considered and measured growth based on growing into the job, rather than simply asking for large dollars to be pushed at us in a single time at the outset.

So we believe that we have laid out a very good plan for attacking this problem. It just turns out that it is a large problem. We have laid down the foundation this first year. We have an infrastructure. We have some staff, which we had, I think, four or five at this time last year when we appeared before the committee. We now have 21, with four board members, including myself.

We are now at a point to add the real technical growth in the agency, to get the real job done, and I think we are poised and up to doing that job and have taken a very methodical

approach to getting there.

From a Start-up to a Fully-Functional Agency

Mr. Walsh. You asked for \$12.5 million. If that were honored, that would be a 300 percent growth in the first three years.

Consider, as well, that while we know you are working diligently on these difficult issues, we still do not have any real evidence of what you expect to accomplish.

While none of this should in any way be considered criticism, I would ask you to consider these facts and then help us to justify the growth that you are proposing. And you might, for the benefit of the subcommittee, give us an idea of where you would like to be in five years in terms of budget, staff and role.

Mr. Hill. Again referring to the business plan which we supplied the Congress last year, actually in late 1997 when we were first funded, we laid out the three-year period of again growing into this position, staffing up over a period of time to become a fully operational agency.

We said that after three years, we would become a fully operational agency at around 100 federal employees. That is, we have asked for 30 additional this year and we would level off after the third year at around 100 employees. That is about the size of the Defense Nuclear Board, which, as I said in my testimony, conducts no investigations.

We think that is a very reasonable approach to what is a very large problem. We are not suggesting that we would go out and try to investigate all those incidents. No agency could ever possibly do that. But what we are suggesting is that there needs to be more real-world information-gathering. The agencies that have been doing this work, any part of it in the past, have never focussed on the root of the problem; that is, cause. And what we are able to do now is to go after cause and only through understanding that will we be able to learn and prevent.

If those agencies were doing a good job at addressing this problem, we think the numbers will go down. That is what GAO told us to focus on. If we can establish a baseline, which is what we have laid out before you today, and this is the first time the federal government has ever pooled its resources together to even look at baseline, then we can drive those numbers down if we are allowed to do our job.

It will not happen overnight. It will not happen by leaps and bounds. If we can provide the safety information, we will be able to reach that goal.

Incident Investigation Criteria

Mr. Walsh. You mentioned several incidents--Dearborn and there was another one where you said there were five deaths. I am not sure where that was.

Mr. Hill. In Allentown over the weekend, Allentown, Pennsylvania.

Mr. Walsh. The incident in Allentown. You made a decision, obviously a tough one, whether to go to Dearborn or to

Allentown. It wasn't a choice between the two obviously but you chose to go to Allentown. What are the criteria?

Also you mentioned that there are 14 other agencies with an interest in this sort of issue. Did members of those agencies go to both of these incidents?

Mr. Hill. First, comparing the two incidents, the question with the Ford plant that was raised immediately: Were hazardous materials, some chemical compound, involved in the cause of the explosion? Obviously you cannot tell that when you have an explosion. You need to do a preliminary assessment. We chose to rather observe and collect information from the other agencies who were on the scene, rather than send a team.

In the Allentown situation over the weekend, it was much clearer. We knew immediately that this was a chemical facility. It was described as such by all the preliminary information that came in.

The other factor, quite frankly, is I could put staff in a vehicle and get them up there in about three hours from here. It was very inexpensive for me to at least conduct a preliminary on-scene assessment. Those were the two key things.

Mr. Walsh. So since the Allentown was a chemical plant, it was obvious, whereas with Dearborn, there may have been some involvement of chemicals. So by order of prioritization, the primary mission is chemical facilities; we have to go there.

Mr. Hill. That is correct. But as we are aware and that Congress pointed out when our statutory language was written, chemicals are everywhere. They are not necessarily the typical places that we observe, so we do not know, when the calls come in.

But your other question regarding the other agencies, Congress clearly pointed out again in our legislative history and statutory language that there was never this focus. There is some portion of chemical safety that is spread among these 14 agencies.

I think the Congress at the time said we have been doing this piecemeal for the past 20 or 30 years; it is time we brought a focus to it, like we did in transportation safety. We brought a focus into the NTSB to say work on understanding why things occur, not just slapping the hands of people who have problems through enforcement.

That works and it has improved safety but when you get to a plateau where you are not really improving any more, then Congress recognized that these agencies, while they take some action, they do not go for cause. They do not look for why it happened.

An OSHA investigator----

Mr. Walsh. Do not the local fire investigators determine what the cause was?

Mr. Hill. They do not typically have the resources to do that. I just, within the past 24 hours, got a letter from Governor Ridge of Pennsylvania asking me to take on a full-blown investigation in this case, urging me to do that because not even the state, not less the locals, have the capability to do what he thinks needs to be done in this case. And I tend to agree with him but again I am limited in what I can do.

Mr. Walsh. Mr. Mollohan.

Establishing a Chemical Incident Database

Mr. Mollohan. Thank you, Mr. Chairman.

Dr. Hill, I really am taken back by the idea that the government does not have a handle on scope with regard to this problem before you, as I understand your testimony, investigation of that during the past year. Could you elaborate on that a bit? That does seem to be a first step in getting a handle on this issue and trying to address it in a way that reduces incidents.

Mr. Hill. Yes, Mr. Mollohan. Indeed, the Congress pointed out that this was spread over various agencies and it needed to be focussed, and there was some urging, particularly in the Clean Air Act Amendments of 1990, to get those agencies to assess the fact that they are all collecting information on these events but they are doing it for different reasons. Some, it is to record enforcement actions. Some, it is to simply track the calls that come in.

What we did that the EPA, as I indicated, in 1993, said was not feasible or preferable to put that information together, we listened very carefully to what GAO told us, that we must have a baseline. We should not count our work on the number of products that come out--the reports--making widgets, if you will, but rather count on whether or not you can drive the numbers down.

And no one else seemed to be putting together this big picture because they were not compelled by their own statutory language and what we did was take that on to make sure that we establish this kind of reference point.

Mr. Mollohan. And you have done that during your first year?

Mr. Hill. Yes. In fact, we did that over the past few months. I am very fortunate to have attracted some staff who are very capable and we were very impressed by what the FAA had done in this same regard of pulling in information from various agencies.

Mr. Mollohan. Was the FAA your model?

Mr. Hill. Yes, FAA was the model for the data program; that is correct.

Mr. Mollohan. So the data program now that you have in place would provide us, if you accessed it, with a quantity of incidents, different types of incidents?

Mr. Hill. Yes. We have some information that will tell us the initiating events, whether it happened on the highway or in an industrial facility, whether it might be human-caused or mechanical. There is some limited information in there that we can cut the data with but certainly we can provide it by state, by district, by county. We have enough information to do that right now.

Focus on Issues Identified in Baseline Study

Mr. Mollohan. And your next focus, if I understand your testimony, is to start developing some sort of cause patterns?

Mr. Hill. Yes, we really want to begin to look at cause. We also want to look at industry sectors. As I testified before the committee last year, I cannot tell you today whether or not

refineries are more of a problem than start-up operations in Allentown or food warehouses or just where chemicals are or whether it is a certain type of industry.

What we are going to try to do is further refine this data so that we can target our efforts, again saying where the most problems are and also make those recommendations to the Congress.

Mr. Mollohan. And the recommendations will be the third phase of this, which you may not talk about in those terms but just for purposes of my question, is that prevention?

Mr. Hill. Yes, certainly.

Mr. Mollohan. It is scope, cause and prevention, and you are into the cause analysis.

Mr. Hill. Yes, we are into the scope right now and our efforts will be to try to understand cause because, as I state in my testimony, cause is the real key to prevention. If we know what fails, then we might be able to keep it from failing again.

Cooperation From the Chemical Industry

Mr. Mollohan. In my former life I was the general counsel to the Institute of Makers of Explosives, which is a very dangerous business. They did and have a very close relationship with the agencies that regulate them.

What kind of cooperation are you getting from the industry side of things, from the associations or from individual chemical manufacturing companies?

Mr. Hill. I would have to characterize it as very good. The organization you just mentioned, IME, was one of the first recipients of our recommendations. We recommended that IME develop some safety training programs for employees who work in explosives manufacturing facilities. That was a result of the very first incident that occurred in January of last year, two days after we began operations. IME was very receptive to that. In fact, the entire industry was receptive.

I think the Congress was wise in how they set this agency up. We do not have enforcement powers. We do not come into a facility with the threat of taking action against the companies.

Mr. Mollohan. So the companies tend to be more receptive.

Mr. Hill. Much more receptive.

Mr. Mollohan. I could actually see that. IME is the Institute of Makers of Explosives. I could imagine that they would be probably lining up first to cooperate with you.

Mr. Hill. They have sent back response to my recommendations saying that they were certainly going to pursue it and that they would keep me informed as to the outcome.

You also know that our reports cannot be used in litigation against the companies. That is another big incentive that Congress put in there to ensure that there would be a much more conducive opportunity to work together and learn from these incidents.

Mr. Mollohan. I was going to ask you, and you may have gotten to it but if you have anything to add to this question, I was going to ask you what value-added do you represent vis-a-vis EPA, OSHA or any one of the great number of agencies that

have tangential jurisdiction over this question? What value-added do you represent toward solving the problem?

Mr. Hill. I see us as a tremendous difference. I think that is why we have gained the support of the industry, particularly large organizations like CMA, API and IME, who all are the trade associations of some of the major manufacturing companies in the country.

They all would like to learn from their mistakes but there has been a disincentive in this country, the way the regulatory programs have been structured, such that you know, as an attorney, that companies are reluctant to talk about their problems and even sketch those out on paper sometimes because they are used in litigation against the company when that is done.

What they see as the incentives that we provide by not being able to take those actions against them, that this gives them the opportunity to learn, which they certainly want to do. No one wants to have an accident. The companies are very supportive. They have tried to do this within their own organizations over a number of years, but they have not been able to do so because of threat of litigation.

Mr. Molloyhan. They do not see you as the cop on the beat who is going to be writing cessation orders or anything of that nature. They see you as the cooperative group that is going to help them solve their problems.

Mr. Hill. That is correct.

Mr. Molloyhan. Thank you, Mr. Chairman.

Mr. Walsh. Thank you, Mr. Molloyhan.

Mrs. Northup.

On-Scene Investigation Process and Mission

Mrs. Northup. Thank you. Mr. Chairman.

I would like to go back to the investigative process, who else is there. I sometimes have the feeling that when there is an accident, whose jurisdiction it is becomes almost more complicated than does a lack of resources. Maybe there is a surplus of resources. Competing resources may be a better word.

So if you go back to the Ford plant in Dearborn, you did not send people there but it seems like certainly OSHA would be there, the local fire and police would be there. If it is a highway accident, you would have the National Transportation Safety people there. And then you have the private sector groups that are there--the insurance carriers and so forth.

And while I believe there is a great need for your services in terms of being the connecting link between patterns of chemical involvement in accidents, I wonder whether or not it is so important that you are on the scene and how often that would be necessary unless chemicals are cited as one of the probable or overwhelming portion of the cause.

Mr. Hill. Yes, indeed, that would be the primary time that we would be at the scene, when we determined that that indeed was the problem. Part of the problem in understanding is it is not always obvious.

So we look at a variety of incidents. We track them as the information comes in--through the wire, through contacts with people who are at the scene, at the site, and we rely on their

information for a number of hours before we can possibly make any decision about what we need to do.

But your question about the other agencies, that is a common perception just about everywhere we go, that incidents are being investigated by various groups. But, as I said about the data aspects, they are doing it for their own purpose within their own statutory language.

In other words, OSHA goes to a facility. They are prohibited from going beyond the rules that are on the books today. That is, did you violate a particular rule when this happened? That is all they need to know and they go. They do not look for well, why did these circumstances occur in the first place? Was there a management problem? Were these employees properly trained? Was there a breakdown in the overall safety system? Those questions do not get probed, which is what we do that is different from everyone else.

How the CSB Is Different From OSHA

Mrs. Northup. I just have to ask you, as a member of the subcommittee that oversees OSHA, that is not the testimony I feel I hear, that OSHA is not constantly monitoring safety.

First of all, I feel like my experience tells me that causes usually are established, that worker safety--OSHA does engage in was there enough training, what could have prevented it?

And again I am not denying the importance of the work you do and your existence, but I do not think we need two agencies doing the same thing, and they certainly target those issues.

Mr. Hill. You are correct. They do target them, and I did not intend to intimate that they do not look for them. But as you know, if a agency steps outside its jurisdiction in any way, looking beyond existing rules and standards, they become threatened by litigation from the companies. That is, you are exceeding your authority.

What the Congress gave us was broad authority. We are not limited to an existing set of rules. We are not limited to an existing list of chemicals that EPA has. If you do not have that chemical, you are out of the picture.

The Congress said to look at everything, not only what is going on at the companies but what we are doing and whether or not our regulations are appropriate.

I met with Charles Jeffress right after he came on the job and I had just come on the job, in fact, myself. And Charles said, ``We are delighted that you are here. Anything that you can go to go beyond and help us improve what we do is a huge benefit to my agency.'' It has been a great working relationship.

Mrs. Northup. And that is important. I guess what I hear you saying are things that do not go beyond. And if you have finite resources, it is extremely important to me that you do go beyond and not repeat or duplicate what is already being done.

In most cases, in most accidents, there is quite an investigation to determine costs. There is quite an investigation to determine what could have been done to prevent it.

I guess I believe that you all could also help prevent it in terms of a big picture, saying this happened in Pennsylvania, this happened in New York.

The truth is no matter how much OSHA we have, there are going to be accidents. The existence of the National Transportation Safety Board does not prevent me getting in my car and having a fatal accident.

Mr. Hill. Absolutely.

Defining the Role of the Agency

Mrs. Northup. What it does is help establish patterns, insight into overall changes that can be made to reduce the likelihood of those accidents. I did not realize the companies could sue OSHA if they got beyond their jurisdiction because certainly that is a question that is raised by a lot of companies these days.

What I want to warn you of is not seeing so much that needs to be done and that may need to be done that you get out there and duplicate what is already being done but instead, spend finite resources in going a step further.

Mr. Hill. Let me just say that I could not agree with you more. The fact is the working relationship with OSHA has been very, very good. In fact, in most cases, I said we have only taken on nine in the entire country in the past 14 months and most all cases, the first thing we do is talk to OSHA. Michigan OSHA is at Ford, for instance. We are relying entirely on OSHA's assessment of this situation.

My only caution is that the data that we get back--we asked for information from OSHA, from the company, from the labor union, all those people who are looking at that scene, to give us their information, that we can assess it and include it in our records. That is about as much----

Mrs. Northup. Is that not enough? Why wring our hands over the fact that you could not send a team in, too?

Mr. Hill. Because the investigations are only one way. I want to go back to what we said earlier. The investigations are only one way to get good information, to get new information and new insights.

You are absolutely right and that is one aspect of why we did it. It is the most visible because people see it. They see you out there. But we are putting a lot of emphasis on all the other challenges that Congress laid out for us. That is assessing the effectiveness of the other agencies, looking for trends.

We are only now, for the very first time, able to do that, able to look for those trends, and we will spend much, much more time on that than we will on the investigations. The investigations are what get everyone's attention. And, as you see, there is only a very small number of those.

Mr. Walsh. Thank you.

Mr. Cramer.

relationship with emergency response personnel

Mr. Cramer. Thank you, Mr. Chairman.

Dr. Hill, what relationship, if any, have you had with

local and state emergency management personnel in the state and local government?

Mr. Hill. We have very good relationships with those agencies, as well. In fact, we have tried to reach out to many of them through their national organizations over the past year and a half to inform them of who we are and what we do. We have developed a web page that would help them know and we have gotten lots of very positive support about it providing a resource for them.

But we have encouraged relationships with them on how we would work together at accident scenes.

Mr. Cramer. You can see that relationship growing?

Mr. Hill. Absolutely.

Mr. Cramer. My relationship with EMA personnel is very good and I find that they are most concerned about hazmat spills. And I would hope that there would be a relationship and even some of your budget would be committed to making sure that they are trained and that you provide technical assistance to them, and I just wondered if that was anticipated or if it is occurring already.

Mr. Hill. Yes indeed, it is. In fact, I have met with the fire marshals from the states. Many of the emergency management associations have invited us to communicate our role to them in their national conferences. And when we are on scene, they have been very good.

In fact, some of the states have volunteered to be pilot programs for helping us report incidents and being a communication channel.

IAFF is actually using our first report on the Sierra chemical accident as a training tool for their emergency responders, so it is a growing, very positive relationship.

explanation of resource allocation

Mr. Cramer. As your budget request is broken down, you want 44 percent for incident prevention and 12 percent for technical information and assistance. Can you give me some examples as to how those percentages are broken down, how they are spent?

Mr. Hill. I will ask Dr. Thompson to address that.

Ms. Thompson. Incident prevention, first of all, cuts across the variety of types of work that we do, so it is not just doing an investigation. And if you are looking for specific types of work that might fall into that category, we are trying to make sure that information we get about incidents is quickly disseminated to people. We find ourselves in some instances where we actually call the company in one facility to let them know that another facility of theirs has had a problem. I have been in that phone conversation. It is a rather awkward situation to be in. But we do get a lot of information. We like to let people know when things are happening.

We have data that we would like to be able to accumulate. For example, companies do not necessarily share information themselves amongst their own companies, their subsidiaries, but they might be very willing to provide us.

The question was asked what value-added we provide. One of the things is that what we get on a voluntary basis, we believe we can protect, desensitize and deidentify to some extent and

make it available so that people have wider access to information that companies themselves have available. So that would fall into the incident prevention area.

We would like to be able to expand in the data arena, bring in additional data sources, build a better picture as the congressman suggested, so that we can add to the profile of what is known already about incidents.

And all of that would fall into the prevention arena, finding various resources that are available elsewhere. The United Kingdom has some wonderful materials that they are quite interested in making available to us that probably are not well known in the United States. So we are working to get our hands on things that we think will be useful to people.

So all of that falls into incident prevention, which is why we did not characterize it as investigation.

providing technical information assistance

Mr. Cramer. And what about technical information and assistance?

Ms. Thompson. We are looking right now, for example, at two projects. Congress pointed out that human factors, for example, is a very weak area in the chemical arena, in terms of where problems tend to occur with human factors.

We found a wonderful package over at the Nuclear Regulatory Commission which was designed for the power plants and we have taken some initial steps to modify that as appropriate for the chemical world. We are following what the Congress said, which was to mine the systems within the government, so we are doing that.

We found a pattern of problems in the area of pressure vessel technology. We are looking at a package we are putting together on pressure release systems, which will be useful for our own investigative people but also for industry. That is more in the technical information----

Mr. Cramer. But those budgets would include getting that information out.

Ms. Thompson. Yes.

Mr. Cramer. So with the EMA personnel making sure that if there is an expense factor there and you need to train or provide assistance or provide some of that information to them, that is covered under those budgets, as well?

Ms. Thompson. That is correct. That is right. From the initiation to getting something through----

Mr. Cramer. And is that a substantial part of your budget increase, those two categories?

Ms. Thompson. Not so much in the technical information area. In the incident prevention area, yes, very much so. We did put in an additional piece of information subsequent to this to show the difference between the 12.5 and the 7.5, so that Congress would understand what they would be buying for the higher amount, versus what they would be getting for the lower.

The large portion of that money will go into our database work and building on the baseline and providing a better picture and a more in-depth picture of what is possible, yes.

Mr. Cramer. Thank you.

Thank you, Mr. Chairman.

Mr. Walsh. Thank you, Bud.
Mr. Sununu.

Support From the EPA

Mr. Sununu. Thank you, Mr. Chairman.

Dr. Hill, in your testimony you describe your relationship with the EPA, not necessarily being adversarial but in that the statute calls for the administrator to provide the board such support and facilities as may be necessary for operation of the board and that assistance with that support and facilities have not been forthcoming.

What kind of support and facilities would EPA have the ability to provide you that you have not been able to gain access to?

Mr. Hill. That is the pressing question, actually, as you put it. We have tried to work with EPA to interpret what that Subsection P of 112(R), what the meaning was as written by the Congress.

We went back and looked at the legislative history and indeed it said that the Congress was considering imbedding our agency within EPA or----

Mr. Sununu. I am sorry; I appreciate the difficulty in interpreting any statute that Congress passes. Regardless of how we interpret it, are you aware of, can you cite any specific areas where you think there would be facilities or administrative support that you would like to gain from EPA that would make a difference in your ability to do your job?

Mr. Hill. Yes, indeed. Rental property was one of the first things that we approached EPA about, facilities, because that is specifically mentioned. That was a major problem that we went around and around about, determining if indeed this provision could lend itself to getting us a place to be housed.

Mr. Sununu. You ended up getting your own facilities?

Mr. Hill. We ended up getting our own space.

Mr. Sununu. Any other areas?

Mr. Hill. We had to use our scarce resources to do that.

Other areas, it mentions administrative support, infrastructure support. We had no infrastructure when we began. Therefore there could have been assistance but there was none forthcoming.

Mr. Sununu. Are you renting facilities, space, from GSA?

Mr. Hill. No. Actually we have acquired space not through GSA but through our own----

Mr. Sununu. You are occupying private sector space?

Mr. Hill. Yes.

Relationship With the OMB

Mr. Sununu. You also testified with regard to OMB's handling of your budget request, that you provide your request to Congress but that the OMB reduced your request by \$5 million and you suggest that that is in violation of the statute, that the statute calls for the administration to pass on your budget request without change.

Am I interpreting your testimony correctly? Is it indeed in violation of the statute?

Mr. Hill. Yes indeed, that is our belief, as was in the comments of the chairman this morning.

Mr. Sununu. I would only add for the record that I also sit on the Budget Committee and that kind of a violation of the budget process is very problematic in that I think, as I understand it, a similar concern was raised by the judiciary that also has a similar statute, that they pass on their budget request regarding courthouse construction and that it is a requirement that the OMB pass that information on in the administration's budget request without change and that those requests have been changed.

And that does not reflect on whether or not your budget request is a good one or a bad one. It may well be a bad one, but the administration is obliged by the statute not to change it and I hope that the subcommittee would look into that.

Explanation of Chemical Incident Data

On Chart D you are counting total incidents and you showed that most incidents were in the State of California, obviously. My theory is it has a lot to do with the number of people that live in California.

Mr. Hill. I think you are right.

Mr. Sununu. Seriously though, have you tried to look at incident rates on a basis that is more apt for comparison, for example, a per capita basis, per worker basis, per labor hour basis, so that we might be able to compare apples to apples and begin to find out where we have problematic patterns?

Mr. Hill. I will ask Dr. Thompson. She is more familiar with the database.

Ms. Thompson. That is an issue right now that we are dealing with, which is to establish the correct basis on which to compare the data--number of hours worked, number of workers, but we have not gotten to that yet.

Mr. Sununu. But you have not gotten to that point yet?

Ms. Thompson. No, we have not. We will. That is definitely something we will be doing.

Mr. Sununu. On Chart E you show fixed facility and transportation incidents and I suppose the good news of this chart is the reduction in incidents from 1994 to 1996. I hope the trend continues in 1997 and 1998, but the reduction in fixed facility incidents is pretty significant and in transportation it is significant, as well, approximately 10 percent reduction in incident rates over those two years.

Do you have any information, hypothesis that you are pursuing regarding why this reduction may have taken place?

Ms. Thompson. We are trying to find out. Everything we checked into so far does not indicate what the change was due to.

Board Member Salaries

Mr. Sununu. Finally, you lay out your budget request, 44 percent for incident prevention, 12 percent technical information, et cetera.

The Scientific Advisory Board, are those volunteers? Are they paid personnel?

Mr. Hill. No, the board members are appointees of the president.

Mr. Sununu. And are they paid a salary?

Mr. Hill. Yes.

Mr. Sununu. What is it?

Mr. Hill. It is set by law.

Mr. Sununu. What are they paid?

Mr. Hill. They are Executive Service level 3, roughly \$118,000.

Mr. Sununu. Wow. Is that GS-3?

Mr. Hill. Yes.

Ms. Thompson. Executive level 3.

Mr. Sununu. So the \$1.25 million for their pay obviously includes that salary and then some administrative costs.

Mr. Hill. That is correct.

Ms. Thompson. That is correct.

Indirect Costs

Mr. Sununu. And last question, what are indirect costs? Sixteen percent of your budget is allocated for indirect costs. What are indirect costs?

Ms. Thompson. They are expenses that we cannot easily assign to a particular function. It might be the cost for a report, a CPA firms on financial review. It would be something that we just cannot attach to an investigation.

Mr. Sununu. That amounts to roughly \$2 million. Is there an itemization in the budget request of what those indirect costs are?

Ms. Thompson. I believe we do have that and if we do not, we can provide that for you.

Mr. Sununu. There is an itemization in the detailed justification, so I will take a look at that. Thank you very much.

Mr. Hill. Certainly.

Mr. Sununu. Thank you, Mr. Chairman.

Mr. Walsh. I thank the gentleman.

Mrs. Meek.

Involvement in Counter-Terrorism

Mrs. Meek. Thank you, Mr. Chairman.

Welcome to each of you. I understand that your job is chemical safety and hazard investigations.

Yesterday I attended a very interesting hearing with the AFT, the alcohol and firearms and terrorism. And they had a display on chemicals. I am wondering if your agency has looked into any aspect of counterterrorism.

Mr. Hill. Yes indeed, Congresswoman. In fact, that is one of the aspects where we have developed at least a preliminary association with the law enforcement agencies, primarily FBI and other agencies. The Department of Defense in particular is interested in how we may assist them in understanding better what types of materials are contained in industrial facilities here in the United States domestically and how we may be able to work with them on preventing acts of terrorism in some way.

Again it seems to be a win/win opportunity where we might

be able to supply them with more information about the domestic program and they have some quite sophisticated computer software that may be able to assist us in our job.

Mrs. Meek. Thank you, because they used several household chemicals, just things that you see every day, in their hearing to show how these chemicals could be combined, put together and used for terrorist activities. I thought that was interesting and it sort of ties in with what you do and I am just wondering if you have been able to get cooperation, as you just mentioned, from some of these other agencies.

Mr. Hill. Yes, indeed. In fact, they came to us. We have been very encouraged by the discussions thus far that there may be the development of a strong relationship there.

Utilization of Additional Staff

Mrs. Meek. I also notice that you will be able to double your staff, according to your budget request.

Mr. Hill. Yes.

Mrs. Meek. How do you plan to utilize these workers?

Mr. Hill. As you know, right now we have 30 FTEs allocated. There are 25 of those filled right now. We are in the process of filling some additional ones.

The new FTEs would be devoted to two primary areas. One is, as I said, we really have the foundation of the agency now laid, the infrastructure. This would grow the technical capability. That is we would be able to conduct more on-site investigations and we would do more work in the data area, to better understand what the national trends are.

So all of those would be dedicated toward technical services development.

Recognition and Visibility of the Agency and Its Mission

Mrs. Meek. One last question, Mr. Chairman.

You are a relatively new agency. Does anyone know that you are around?

Mr. Hill. Sometimes we have trouble. I think we missed being included in the federal yellow book this year. We are small and indeed part of our job is making others aware that we do exist and what a unique job that Congress has given us to do. We have used our web site and many other ways to reach out and help people understand the unique role.

In fact, usually when we say we are like NTSB, that helps people understand who we are and what we do.

Mrs. Meek. Thank you.

Thank you, Mr. Chairman.

Mr. Walsh. Are there any other questions of the board members?

Mr. Mollohan. Mr. Chairman, I have some to submit for the record.

Mr. Walsh. As do I. And anyone else who has questions they wish to submit for the record, we will do so without objection.

Letter of Support From Representative George Miller

I have a letter here from Congressman George Miller of

California that he would like entered into the record. If there is no objection, we will do that.

[Letter from Mr. George Miller follows:]

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Mr. Walsh. And we thank you very much for your time and for your presentation.

Mr. Hill. Thank you, Mr. Chairman.

Mr. Walsh. We will take a brief recess and come back in about five minutes.

[Recess.]

[Questions and answers of this panel follow:]

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Wednesday, February 24, 1999.

COUNCIL ON ENVIRONMENTAL QUALITY

WITNESS

GEORGE T. FRAMPTON, JR., ACTING CHAIRMAN

Mr. Walsh. The hearing will return to order. This morning's hearing will begin its next step by reviewing the budget of the Executive Office's Council on Environmental Quality and Office of Environmental Quality. For fiscal year 2000 their budget request is \$3,020,000, 23 full-time equivalent positions at an increase of \$345,000.

Testifying for the first time before our subcommittee is the acting chairman of the CEQ, Mr. George Frampton. Welcome, Mr. Frampton. It is good to have you with us today. It is my understanding that you expect your formal nomination to be submitted to the Senate very soon.

I would like to welcome you this morning and after Mr. Mollohan offers any opening comments he may have, we will ask you to introduce any of your associates that are with you this morning and then summarize your testimony as you see fit.

It is now my pleasure to call on my colleague, Mr. Mollohan.

Mr. Mollohan. I have no statement, Mr. Chairman.

Mr. Walsh. He is not from West Virginia, so we can dispense with that. I assume he is not. I mean, I am sure he is not, since you did not mention it.

Mr. Mollohan. Let us get right down to it.

Mr. Walsh. I apologize that he is not from West Virginia. We will try to do something about that.

Mr. Frampton, please.

Mr. Frampton. Thank you, Mr. Chairman, Mr. Mollohan, Mrs. Meek. I appreciate the opportunity to appear here this morning. A number of CEQ staff members are behind me. I will introduce them if I might. I think some of you have met them before.

Wesley Warren is chief of staff. Carolyn Mosley is our administrative director. Robert Kapla on this end. Judy Jablow, our legislative director. Dinah Bear, general counsel. And

Ellen Athas, who is the deputy general counsel. And we all appreciate the opportunity to be here.

I apologize for coming off a cold. I probably sound worse than I feel.

I just want to inform you that I understand that my nomination actually did go up on Monday or yesterday morning to the Senate.

Mr. Walsh. Good luck.

Mr. Frampton. Thank you. And I have submitted written testimony. I assume that will be made part of the record.

Mr. Walsh. We will include your entire statement in the record.

Mr. Frampton. As you know, CEQ was created in 1970 by the Congress to advise the president on environmental policy, to oversee the implementation of the National Environmental Policy Act, including the preparation of environmental impact statements by federal agencies, and to coordinate the work of the departments and agencies of the federal government on environmental policy. And I really want to focus on the third of those because from my point of view, coming in in the last couple of months, that is an enormously important part of what CEQ does and it is the reason why we are asking for a budget increase for fiscal year 2000.

CEQ is charged with making sure that agencies with individual missions, statutes and priorities work together on cross-cutting environmental and natural resource issues. Today virtually every significant environmental and natural resource issue that the federal government works on is a cross-cutting issue.

Basically CEQ, as I see it, is there to provide some balance, to make sure that environmental priorities, environmental goals are achieved, consistent with economic and social needs of the country, to make sure that the federal government agencies are all working off the same page to resolve disputes, and to solve problems. We are a very practical problem-solving organization.

Partnership Program

What I think is new, about CEQ's work and I have had a chance to talk with some of you about this in the last couple of weeks, is that, in the last few years, virtually every significant environmental initiative that the federal government is involved in requires not only coordination between federal agencies but some kind of partnership between federal agencies, state and local governments, private landowners and other stakeholders.

I served as assistant secretary at the Department of Interior for four years with responsibility for the National Park Service and the U.S. Fish and Wildlife Service and virtually everything I did in those four years involved partnerships and interrelationships with governors, mayors, county executives, private landowners, and nonprofit organizations. I worked on Everglades restoration, chaired a committee which had nine federal agencies, the governor's office--Mrs. Meek knows this very well--an independent state water board, two state agencies, industry, and scientists. I

also worked on making the Endangered Species Act work in Southern California with planning for the whole area between San Diego and Los Angeles through a state-initiated process that involved counties, cities, developers, environmental groups, state agencies, as well as the federal government. I also worked on California water, Exxon Valdez oil spill restoration, in addition to working with the military services and forest products companies in the Southeast on habitat protection.

Virtually everything that I did at Interior involved some kind of partnership with state and local government and stakeholders. And coming to CEQ, I see that on a larger scale.

In the federal government, there is only one place that you can come to if you have a problem about federal agencies not being on the same page or if you are in federal or state government and you want to see the federal departments work together and work with state and local government. Basically there is only one place you can come and that is CEQ.

So we are at the crossroads of work that has to go on and partnerships that have to be created and maintained between state and local government and the federal agencies.

Mr. Chairman, I think I mentioned to you that in November, the first week I was at CEQ, I went out to meet with the Western Governors Association in Phoenix. The one thing that the governors said, and I did a public breakfast with them, was the thing that we need from the state point of view is we need the federal agencies to be working together. We need the federal family to talk to us with one voice. And CEQ is the place we come when two or more federal agencies are at odds and we are caught in the middle. CEQ is the place where we come to make sure the federal family is speaking with one voice.

And we would love you to have more resources to do this and we would support your having more resources to do this. We think this is a very important function.

For those of us who are out there in counties and states having to make programs work, CEQ is our troubleshooter, our ombudsman. If we have a problem with EPA that we cannot solve going up the ladder at EPA or if EPA is at odds with the Army Corps of Engineers, we come to CEQ.

So we want you to succeed. We want you to do a good job. We want you to be well staffed.

CEQ FY 2000 Budget

We are a very small agency. We have 18 full-time people on staff right now. We have 23 authorized FTEs. We do not actually have the money right now to hire that number. We are asking for an increase of \$345,000 for next year. It is a big percentage increase but basically it is only enough money to allow us to hire up to our authorized FTE level of 23 people, which is all we are asking for.

And my goal is to use those extra resources, whatever you are able to provide for us, on staffing to try to support the sorts of partnerships with state and local governments that I have talked about because if there is one huge need that CEQ is not fulfilling right now, it is that need.

President's FY 2000 Budget

Let me give you one example in the president's proposed budget for fiscal year 2000. The governors of the West Coast states--California, Oregon, Washington and Alaska--wrote the president and said we would like you to create a coastal salmon restoration fund for the entire West Coast and we would like you to provide \$200 million a year for six years in the form of grants to the governors' offices to be used by state and local government in a partnership with the federal agencies to try to promote salmon restoration and habitat restoration in Oregon, Washington, California and Alaska.

And in the president's proposed budget there is a proposal for \$100 million to be split between the four states and the treaty tribes of the Northwest to begin this partnership program. And the four governors have said that we do not want red tape. We want to have this money directly, but we want to make sure that there are standards, that this is done in a scientifically valid way, and we want it to be coordinated by CEQ because CEQ we view as the best single partner in the federal government.

If that program is enacted and the money is provided, we do not have anybody on staff. If we have to coordinate that program, we will have to shift responsibilities and find a way. And I could mention six or seven more partnerships like that that we really cannot address.

CEQ Problem Solving

Let me just close by giving you an example or two of the kinds of people who come to CEQ. I use these two examples because I think they are not the kinds of examples you will think of, at least not for people who may think of CEQ as solely an environmental organization.

Last week a fellow named Denny Scott came to see us. Denny Scott is in the organizing department of the Brotherhood of Carpenters in Oregon and worked very hard from a labor point of view five years ago when the administration was developing its Northwest forest plan.

And Denny Scott came to see us at CEQ because he wanted us to try to find a champion for expanding the Jobs in the Woods program in the Northwest from forest restoration and from dislocation caused by changing timber patterns, to try to create a program in which salmon restoration and particularly any money that went from the federal to the state government for salmon restoration would be tied to creating new quality jobs, professional jobs, trained people to work on salmon restoration, groups of workers who would ally with a contractor who would be able to do specialized work.

And I said to him, well, why did you not come to the Labor Department? Why did you not come to the Commerce Department? Why are you coming to CEQ? He said that CEQ is charged with the responsibility for overseeing the implementation of the president's forest plan of the Northwest. CEQ has the big picture. CEQ is the place where you see these things come together. And if the original Jobs in the Woods concept is to be expanded to salmon restoration, then somebody who really

sees the big picture has got to make that happen.

And you can make this happen with the Labor Department and you can make this happen with Commerce and you are the people who can say to the governors if we are going to give you grant money for coastal salmon restoration, a key criteria here has to be that some of the money goes for those projects that create new, high quality jobs. So we are coming to you at CEQ.

Similarly, the longshoremen in New Jersey came to us when they feared that conflicts between federal agencies were going to prevent dredging in New Jersey and New York harbor and that new port facilities were going to go elsewhere. They could not get any satisfaction from the individual agencies.

So they came to CEQ and said look, our jobs are jeopardized. The problem is that the federal agencies are not speaking with the same voice. See if you can fix this. And we were able to fix it. And over the last two, two and a half years, in fact, we have had a situation in which between EPA and the Army Corps of Engineers and various other federal agencies, the dredging has been allowed to go forward.

CEQ's Mission

So I give you those examples as perhaps nonconventional examples to show that CEQ is not simply an environmental agency. We solve problems. We try to harmonize environmental and economic factors. We try to make agencies work together. We try to promote partnerships. And we are the one place, if you are a governor or a mayor or a county executive and you are having problems with the federal government, where you can come to see if you can find somebody to fix those problems.

And I think that is the way I see the core mission of CEQ right now and over the next couple of years. We could easily put three or four times as many people to work. As I said, we have an authorized limit now of 23 FTEs. I think in the 1970s at one point CEQ had 60 people, something like 49 at the end of the Carter Administration, 40 at the end of the Bush Administration. So, we are an agency that gets increasing demands but our budget and our staffing is a lot smaller than it has been historically.

I hope that you will look favorably on the very small amount of money that we are asking for to hire another couple of people to be problem-solvers in the next couple of years. Thank you, Mr. Chairman.

[The information follows:]

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Mr. Walsh. Thank you. Thank you for your testimony.

We obviously have oversight responsibility primarily for funding your department but in the course of your conversation, and I apologize for not giving you an opportunity to prepare for this question but just take a whack at it, if you would. We had a conversation in the office and I neglected to run this by you but as you talked about providing big picture solutions to things, let me just run this one by you.

onondaga lake clean-up project

I think I may have briefly mentioned that we have a major clean-up project in my constituency, Onondaga Lake. After the county and the environmental community and the state signed a consent decree to resolve this issue, which they all signed and testified for and to, we ended up with an agreement it would have to be implemented in a period of time that includes the EPA, New York State DEC, the state attorney general's office because there are some private pollution that needs to be resolved that is in litigation, something called the Onondaga Lake Management Conference--they set up a not-for-profit organization called the Onondaga Lake Clean-up Corporation--the Onondaga County Drainage and Sanitation Department. And I notice the fortress-like label pin of the Army Corps of Engineers here; the Army Corps of Engineers was also included.

Basically it is a major CSO improvement, upgrade to the wastewater plant to reduce a number of chemicals, ammonia and others, phosphorus, nonpoint source solution. There is an aeration project that is sort of an experimental project, and littoral zone improvement and a lot of other things going on around the lake.

So the Army Corps came to me and they said if you let us manage this project for you, we will get it done ahead of time and under budget. And I am tempted, although I know that the Army Corps is noted for dotting all the i's and crossing all the t's and making sure that every step is fulfilled along the way.

Just your comment. We have a lot of cooks in the broth here. The broth, by the way, is getting better but it is still not very nice.

Mr. Frampton. Well, I am not that familiar with----

Mr. Walsh. I know you are not.

Mr. Frampton. And my impression of that particular clean-up project is that the principal source is still waste treatment.

Mr. Walsh. It is primarily wastewater but----

Mr. Frampton. I know that USDA, for example, I believe has done dairy BNPs.

Mr. Walsh. Yes.

Mr. Frampton. A variety of----

Mr. Walsh. Yes, in that watershed they have.

Mr. Frampton. My own experience with this and a half a dozen somewhat similar situations at Interior, whether on the West Coast or Florida, is that you need a head chef and you need a crew that is willing to work for the head chef.

Mr. Walsh. You almost need a crew that has to work for the head.

Mr. Frampton. And if you have agencies that are willing to work together, then you can create a structure or a process that is well fitted to the particular problem and save years and a lot of dollars doing it.

everglades restoration

When I started at Interior there was no model for Everglades restoration, South Florida Restoration Task Force. We put that together, in part because of the partnership

between Secretary Babbitt and the Army Corps of Engineers. The Army Corps of Engineers has taken the lead on that and it has been absolutely a breathtaking project. You have scientists and environmental groups and state sugar industry, federal and state agencies, the public, urban communities that need an assured clean drinking water supply all on board.

So I think that it sounds like the sort of challenge that can be addressed.

Mr. Walsh. So when they sit down and they run through the percolation charts and the implementation charts, the Army Corps is sitting at the head of the table in the Everglades meetings?

Mr. Frampton. In the Everglades meetings we created a task force that works by consensus. But the Army Corps of Engineers has been the leader and the Corps made a fundamental commitment at the beginning to operate the project with the resource agencies at both the state and federal level as their clients and their advisors. That is what it took to get everybody together.

Mr. Walsh. Fair answer. All right, back to our responsibilities here. And thank you for that. That is helpful.

ceq fy 2000 budget

You have asked for \$3,020,000, which is exactly what you asked for 1998, 1999 and 2000. Congress did provide an additional sum over the 1998 level and stipulated that at least \$100,000 of that \$175,000 be directed toward NEPA reinvention.

Have you used any of this increase to hire additional staff?

nepa reinvention

Mr. Frampton. We have not yet, Mr. Chairman. What we have done is to try to shift around responsibilities among existing staff, to try to do more of the NEPA reinvention work. Originally, I believe, a year ago there was a proposal for a significant amount, more than the \$100,000. What we are going to do is hire a staff person, an additional staff person, in the spring, in the next couple of months.

One of the major things that I think the committee wanted us to do on NEPA reinvention with this additional money, and we have gone forward to do this in the last few months, is to try to address the issue of pipeline construction, specifically, permitting and NEPA work.

We have done that with the agencies and we have pursued a number of other NEPA reinvention projects, but we have not yet hired any new staff. Partly, I have to say, that is the result of my coming on in November when we got the money and trying to do a two-year set of priorities, to look at what we need to do and what kind of staffing we need in the next two years. Unfortunately, that has probably delayed by a couple of months the process of new hiring.

Mr. Walsh. So your intent is to hire an additional person with this expanded natural gas pipeline network?

Mr. Frampton. No, we are doing that with existing staff. What we have done is to meet with the industry, learn what

their concerns are, and I can go into that in more details, but we met with the agencies, we drafted an MOU, so we have moved ahead using existing staff on that particular reinvention project.

ceq partnership program

Mr. Walsh. You noted in your budget justification that the key new initiative for CEQ in fiscal year 2000 will be a partnership program. Would you please explain that?

Mr. Frampton. Well, Mr. Chairman, I see the great expanding area of demand on CEQ to be the demand from state and local government for some voice to make sure that on virtually every issue of federal environmental policy that there is effective partnership between state and local government and federal agencies, and the example I gave of the salmon program is one.

But we probably get three times as many requests for help, working with state and local government and the ways in which the federal agencies relate to them as we can even address.

And as I think you are aware, in the president's budget, proposed fiscal year 2000 budget, there are a number of major new partnership initiatives that have been proposed. One is the Lands Legacy program. The president has proposed that the Land and Water Conservation Fund be authorized at a full level of \$1 billion a year, of which about \$450 million would go for federal land and water conservation acquisitions. But about \$550 million would go for various partnership programs with state and local government to acquire park land, green space, ag land protection, coastal restoration. The vice president also announced, with the president, a very large new initiative on livability and smart growth.

There are about a half a dozen proposed programs or vehicles there, all of which require federal agencies to work with state and local government.

partnership programs in president's fy 2000 budget

Mr. Walsh. Air, land, water? There are a number of these. From your perch atop the CEQ, how much do you believe has been proposed to be appropriated for these partnerships total, systemwide?

Mr. Frampton. Well, the Lands Legacy is about \$600 million of money that would go to state and local government for smart growth, land acquisition and restoration activities.

The livability initiative, for example, includes a proposal for Better America Bonds, which would be in the tax bill, which is a proposal over five years to authorize close to \$10 billion of bonding authority for state and local government, not only to do smart growth but also brownfields restoration and clean water.

So there is another program that would require a fair amount of interagency coordination. And right now that will come to CEQ if Congress enacts it.

We have proposed in the EPA budget a new Clean Air Fund, which is like an SRF for clean air. It is a \$200 million a year fund that would allow state and local government to provide favorable financing to companies that invest in clean air

technology and also technology that reduces carbon emissions.

So there alone is billions of dollars of new partnership programs. In each case, money goes to state and local government but there is going to be some federal coordinating role in this. And right now there is no other place in the federal government where there would be any obvious oversight or involvement here, other than CEQ.

Mr. Walsh. This is all new spending. Staff says it is about \$2.7 billion. All new spending?

Mr. Frampton. There are new programs. I do not know whether \$2.7 billion is the total but it is all spending that is obviously paid for within the president's budget.

Mr. Walsh. We have budget caps. I just wanted to throw that out, let you think about it for a while. I will then defer to Mr. Mollohan.

Mr. Mollohan. Thank you, Mr. Chairman.

Welcome, Mr. Frampton. I appreciate your appearance here today.

clean coal technology

I have read through your budget justification and your testimony and I listened to your oral testimony. I think it would be a good thing if the Council on Environmental Quality would take up as an issue of concern, in trying to coordinate policy with private sector and come out with the right solutions, the question of how we use coal in environmentally sound ways into the future.

I am just going to note that you do not mention the word ``cool'' in your oral or written testimony. Neither is it mentioned in your budget.

My only purpose today is to express the intention on my part to open a dialogue with you to get this subject on your agenda, to try to work cooperatively with you, and to use the good offices of your council--that you market as having real expertise in facilitating these balanced policies--to get coal into the agenda.

And just by way of doing that, do you have an appreciation for how much power consumed in this nation today is generated by coal-fired power plants?

Mr. Frampton. I do not know the exact number, but I think something like 45 percent or 47 percent of our power generation is coal. That may be a little high, but that is the number that sticks in my mind.

Mr. Mollohan. Could it be a little low?

Mr. Frampton. It could be low.

Mr. Mollohan. I am not going to go into that much further, but you ought to familiarize yourself with that subject. It is really considerably higher than that.

Do you have an appreciation for how many years into the future it is estimated that we will rely upon coal-fired power?

Mr. Frampton. I do not have--it is not an area of expertise.

Mr. Mollohan. I certainly understand that.

Mr. Frampton. I have seen various models of scenarios of the likely percentage of electricity generation, let's say, that will still be coal-fired twenty, thirty, forty years from

now, and it will be very substantial under any model.

Mr. Mollohan. If I would suggest to you it might be almost as much as twice the number that you think is now would that surprise you?

Mr. Frampton. Well, if 30 years from now 95 percent of our electricity is produced from coal----

Mr. Mollohan. Well, how about eighty?

Mr. Frampton. Eighty percent?

Mr. Mollohan. I said almost twice as what currently was produced. I think you said about forty or forty-five. Would that surprise you?

Mr. Frampton. If 25 years from now 80 percent of our electricity production came from coal?

Mr. Mollohan. Right.

Mr. Frampton. That would surprise me.

Mr. Mollohan. And that would surprise you that we have projections to that extent?

Mr. Frampton. That would surprise me.

Mr. Walsh. Would you yield?

Mr. Mollohan. Yes.

Mr. Walsh. Are you talking about the United States or worldwide?

Mr. Mollohan. The United States. My point is that we are going to be relying upon coal-fired electricity far into the future. And if you start with that premise, then it seems to me that the only way you are going to get around that is to dramatically change the lifestyle and the standard of living of Americans. And what do I mean by that? You are going to turn out a lot of lights. And people are not going to do that.

So, with that as a starting point, it seems to me that we need to bring the subject of using coal into the debate. We need to bring it into your considerations--how you balance policy, and make it a priority concern. This should be your council, because as you advertise yourself, you are in the business of setting policy and accommodating conflicting interests. And so I would really invite you to do that, and I intend to follow up on that with you.

As I note, this does suggest that there is a conscious decision on somebody's part to not even mention the word ``coal.'' You are a nuts-and-bolts, council, working people's water problems, salmon issues and the like, I am impressed with how hands-on you really are in solving problems.

However, this is a huge problem. I think I am giving you a lecture instead of the question, but I think that may help us establish the kind of relationship I want. The issue is how do you get power companies to either retrofit old power plants, which is a very difficult issue, or to build new power plants, which is easier to incorporate clean coal technology into? How we incentivize them to do this--that is really the solution to the problem.

But what we are also talking about is reducing emissions, and how that cost is borne. You talk about environmental policy as being an economic boon to the economy. In the aggregate, you may have a good argument. As it relates to sectors of the economy, however, you have a very bad argument because it has a devastating effect on certain sectors of the economy.

Mr. Frampton. Well, I would welcome opening a dialogue with you on this. I would just like to say that this is not my area

of expertise, but my impression both from the Interior Department and coming back into the Government in the last few months is that this administration has made a pretty significant commitment to the clean coal program. Just speaking before the hearing--and you mentioned the administration has asked for less money for 2000, but in a way, the reason for that is the success of the program; because of the 40 selective clean coal technology projects, 38 are fully funded. The other two do not need money for 2000. They need construction money for 2001.

Mr. Mollohan. What is the measurement of success of the clean coal technology program?

Mr. Frampton. Well, I think one measure of success is that a very substantial percentage of coal plants now in the United States use cleaner burners that came out of this program. But I will say that another measure of success is going to have to be whether American companies are able to be competitive in world markets, because the last time I really looked at this, which was 2 or 3 years ago, when you look at the huge demands internationally--China, India--for clean coal, and I know you are skeptical about climate change issues, but----

Mr. Mollohan. Well, I do not----

Mr. Frampton. You know, coal is--China is going to develop with coal, and clean coal is absolutely key here. The companies that are competing in those technologies, the ones that are actually--the technology for some of the clean coal demonstration projects in this country are coming from Germany and France and the Scandinavian countries. So I think a big test of this is not only whether the technologies, which are not, by and large, able to compete in the market, or they were not 4 or 5 years ago without government funding, whether they emerge as market technologies and whether American companies benefit competitively from these projects. I think those are probably the two biggest measures. Obviously the jury is out.

But my impression is--I mentioned to you that the first year that I was at Interior, I worked very hard to make sure that one of the first of these projects, the clean coal plant on the border of Denali National Park, actually went forward, which it was not going to do without some intervention by the Interior Department. And that has been a terrific success.

So I appreciate the value of this program, and there is the advanced coal technology program, and there are other areas that--carbon sequestration, we have asked for additional money in the context of that program.

My impression is not that the administration is ignoring this issue, but it has made a commitment to clean coal and the advance of clean coal technology. We may disagree about that, but that is my impression.

Mr. Mollohan. Well, I hope we are not disagreeing about anything at this point. If you start from the premise that everything is okay with the administration's policies regarding the use of carbon-based fuels for the generation of electricity, then we do not have any place to go with this. To what extent are power companies retrofitting or building new power plants, incorporating technologies that really would achieve desired and required results?

That is the more direct measurement, not whether we are

doing a project up in a wildlife refuge, to be honest with you. There is a more practical measurement in terms of scale and meaningfulness to the economy than whether we have a successful demonstration project in a particular place. Can we economically incorporate these technologies and use our coal resources?

I have taken up too much time to get at this, but I do look forward to working with you on these issues. They are enormously important as the Administration pursues a very aggressive environmental policy. I may agree with you on a lot of these things. My concerns are how we implement them and that we are sympathetic to the economic effects.

Thank you, Mr. Chairman. Sorry to take up so much time.

Mr. Walsh. Thank you.

Mr. Sununu?

nepa reinvention

Mr. Sununu. Thank you. Good morning, Mr. Chairman.

A point of clarification. You mentioned \$175,000 for NEPA reinvention, but you have not hired any staff with those funds. What did you use those funds for?

Mr. Frampton. I did not mention \$175,000. I believe that the committee--I may be wrong---

Mr. Walsh. If you would yield for just a second, the subcommittee provided an additional \$175,000 and earmarked \$100,000 for NEPA reinvention.

Mr. Frampton. That is for fiscal year 1999.

Mr. Sununu. And the question stands. If not used for new staff, what were the funds used for with regard to NEPA reinvention?

Mr. Frampton. Well, the funds have been used so far to try to move existing staff onto these projects within the overall allocation. To be honest about it, \$100,000 does not allow this agency to hire, necessarily to hire a new person on an annualized basis. But we do have money to hire new staff, and as I said, that is partly a weighted sort of planning for the next 2 years, developed over the last 60 days since I started. But what we have done is gotten to work not only on the project that the committee wanted us to work on, which relates to trying to make gas pipeline permitting, not only the NEPA process but the permitting process, streamline it and make it work better, but on a handful of other projects as well.

SALMON RESTORATION

Mr. Sununu. You mentioned the Governors' request, the four Governors on the west coast, for the salmon project. They requested that you participate. Was that request made in a formal way?

Mr. Frampton. Yes, in a letter to the Vice President and the President, asking that the Chair of CEQ and CEQ staff actually supervise or coordinate both the fund and the relationship between the Federal agencies and the States.

Mr. Sununu. It was done in a letter that the four did sign?

Mr. Frampton. Yes.

CEQ Breaking Gridlock

Mr. Sununu. You described the situation with the longshoremens where you fixed a problem on behalf of the longshoremens. In that particular case, my question is: What was the nature of the fix? Was it that agencies were misinterpreting existing statutes or that you found a way to avoid the statute?

Mr. Frampton. Well, I do not think CEQ has been engaged in any strategies to violate or avoid environmental laws. This was a little bit before my tenure. The fundamental problem was that over a period of time, environmental lawsuits had prevented any further dumping of dredge fill in a site in the Atlantic, which made it impossible to keep dredging in the harbor. And CEQ basically worked with the parties to the lawsuits and the Federal agencies to find an alternative and a scientific validation of the alternative for the deposit of the dredge fill in a different place that would be environmentally appropriate, and so the dredging could go forward. That is the shorthand of my understanding.

I am not saying that this is rocket science. I am saying that sometimes you just have gridlock, and it takes somebody to come in and work on the problem. That is what we did.

Mr. Sununu. Did that experience in your mind reveal any underlying problems with the existing statutes that a project or process--in this case, dredging--would have, without your intervention, been prevented from moving forward?

Mr. Frampton. Well, we have an underlying structural problem which is created by the fact that many of the environmental laws, regulatory laws that help keep our air and water clean were passed in the late 1960s and the early 1970s, at times when we were focused on one issue at a time. And now we find that the kinds of problems that we are dealing with--the easy problems got solved to some extent in the last 25 or 30 years. The problems we are dealing with now run across these laws. But there is no institutional framework for agencies with different laws and different missions trying to get together to tackle these systemic regional problems. This is a perfectly good example.

CEQ was not designed with this in mind. It was not enacted with this function in mind, but it has come to be the one place in the Federal Government that can play this role.

Mr. Sununu. Notwithstanding the fact that---

Mr. Frampton. It is not very specific, but that is the nature of the problems that we work on, is that we have not re-enacted our individual environmental laws to take account of the problems we face today.

Mr. Sununu. But notwithstanding the fact that I am sure you enjoy your current position, don't you find it bothersome as a citizen that we have a regulatory structure that allows for progress only when an agency like yours is empowered to cut across all of these lines or to find solutions or cut through red tape? Isn't that an indication that there is a very significant institutional problem with the laws and regulations that you alluded to?

Mr. Frampton. Well, I cannot agree that we have a regulatory system that works only in those cases because I

think our regulatory system has worked terrifically well to provide cleaner water and cleaner air and to deal with some very important public health problems. But, yes, we do have a systemic problem, but it is a systemic problem that could only be remedied by an extraordinary cooperative collaboration between the executive and legislative branches.

Right now we are in a situation where even these basic laws--the Clean Water Act, the Endangered Species Act--cannot be reauthorized--Superfund--because there is not enough collaboration between the executive and legislative branches to get to the point where everybody is ready to do what I would call sort of a centrist reform reauthorization of the individual laws. We are far short of any kind of a comprehensive new generation of environmental and natural resource regulation. We are not even close to that. But I do not know that either branch of Government is to blame for that. But we do have a systemic problem, but I am not embarrassed about that from--from the country's point of view, perhaps, but not from the executive branch's point of view.

SUPERFUND LITIGATION

Mr. Sununu. As an advisor to the President on these environmental matters, do you have an opinion, with regard to the application of joint, several, and retroactive liability to municipalities in the Superfund litigation?

Mr. Frampton. Well, I want to make sure that that is a question that I have a chance to respond to in writing [Laughter.] But I will tell you what my----

Mr. Sununu. Duly noted.

Mr. Frampton. I will tell you what my impression is of the status of Superfund from another vantage point. This administration worked very hard in 1993 and 1994 to help to put together a centrist reform package in Superfund, and there were big polluters and there were insurance companies, there were environmentalists, there were State and local government people who were all on board. And then after the 1994 election, that effort fell apart.

At this point, you know, it is not clear that there is ever going to be reassembled that kind of centrist coalition for reform. In the meantime--

Mr. Sununu. I appreciate the difficulty----

Mr. Frampton [continuing]. The administration is not an administrator.

Mr. Sununu. My question is a very specific one, and please respond in writing, sort of what is your position as an advisor on these issues as to whether or not municipalities should be subject to the often very damaging impacts of joint, several, and retroactive liability.

Mr. Frampton. I would be happy to respond in writing.

Mr. Sununu. Thank you very much.

Mr. Frampton. Thank you.

Mr. Walsh. Mrs. Meek.

Mrs. Meek. Thank you, Mr. Chairman.

HOMESTEAD AIR FORCE BASE

Welcome to our committee. I am following up on something that has been sort of in my purview since I started on this subcommittee, and at this point I have been unable to get it resolved. I am beginning to feel badly about my inability to get these problems resolved. Each of us as Congresspersons have a very strong local and State responsibility in trying to coordinate the Federal piece with the local officials.

My problem comes up as a result of the former Homestead Air Force Base, which is now a Homestead Air Reserve Base. I have not been able to get the coordination which you so strongly emphasized today, that you are striving so hard to reach, from CEQ and the local officials in my jurisdiction.

Let me explain it to you, and I will submit it for the record.

You have emphasized in your presentation a new way of doing business, and I welcome you to CEQ with this new way of doing business. I just want you to be sure that there is some policy coordination, if possible, between the agencies which you seek so stridently to try and coordinate.

I know we have a vote coming up, Mr. Chairman, and it is going to take me longer to do this.

Mr. Walsh. We have 10 minutes, so after about 5, we will break.

Mrs. Meek. Okay. I have been disappointed with CEQ's ability to coordinate in most of the problems we are having in South Florida. You have done a good job with the Everglades. I want to commend you on that. But the other big problem which is continually there is the one of the Homestead Air Force Base.

There has been a longstanding dispute in that area between the FAA, the Federal Aviation Administration, and the Department of Interior over acceptable noise levels at this base. What, I wonder, has prevented CEQ from taking a higher profile in trying to negotiate and trying to help in this instance? Because it is an interagency dispute.

My people back home tell me that CEQ has taken no impact on this issue. This has no relevance to you because you were not there at the time. But I am bringing it up so it becomes very high on your list of looking to see why hasn't CEQ taken a stronger impact on this issue. It took 8 months for these agencies to even agree on the fact that there should be an acceptable noise level measurement. It took them that long on noise measurement. They have yet to come to the levels which everyone could depend on.

Then the second thing. There is a canal there called Military Canal, which everyone knows about. It has taken so much time to resolve the issue of the Military Canal. EPA became involved just 3 months ago, but the settlement solution to Military Canal has been an issue since I came to Congress over 4 years ago.

So it is really weighing on me now, the fact, Mr. Frampton, that CEQ is supposed to be the agency that tries to resolve these issues. The Senators from my district have also tried, and they are still trying. But we cannot seem to do it.

Now, I want to talk a little bit about the SEIS at the base. We have been praying that the supplemental would sometimes happen, at some times. My local people tell me it is over 6 months now behind schedule. I read a report from one of

my Senators which showed that it will not even be completed before the year 2000, if then. And this is something that started some time ago.

All I am asking you, Mr. Frampton, is, please, under your leadership try and see that CEQ's lead role in this is a stronger one and more timely. We are losing sort of a little credibility in our district in our area in South Florida, and that includes the two Senators and the four representatives that are in that area. We have the Defense Department, the Interior Department, the EPA, the Fish and Wildlife Service, the Park Service--all these agencies are involved in this supplemental.

Now, that may be the reason why we are having such a big problem, but since you are on your milky steed now, you are supposed to ride in and do something about this. I am calling on you and all your staff as a last resort--from what I am hearing you say and what I have been able to perceive, you are the last court of resort. And we have been there, and we have not gotten very far.

I am appealing to you that you do everything you possibly can to not speed up, but just be sure this does happen.

Mr. Frampton. Well, Congresswoman, I have become aware in the last few weeks how frustrated you are about the case of Homestead, and I understand that. And as you know from our work together on Everglades restoration, sometimes things do not happen as fast as you would like. I do have a strong impression from the day the President was there with you on the base that the administration has really kept its commitment to make this base development airport project happen.

Now, you may look at some of the things that are going on and say, well, but it is taking forever to honor that commitment, what kind of a commitment is that, and I understand your frustration. And I will work with you on this.

But I think my impression coming in and from being at Interior the last couple of years is that the White House's commitment and the administration's commitment to make this happen remains--and it was firm at the beginning and remains firm.

Now, one of the problems is with the SEIS. You know, I know you were not happy with the decision to do it in the first place, but my impression is, this is the way we had to do it to do it right. And look what happened at the State and local level where there were, arguably, some shortcuts in the planning process, and now we have the courts set that back maybe several years because they did not do it right. I am suggesting that---

Mrs. Meek. If I may intervene for a----

Mr. Frampton. We are not going to take any shortcuts, but we are going to try to----

Mrs. Meek. If I may intervene, I have read very carefully your testimony today, and you mentioned some other areas where you were able to come forward with some changes because of CEQ. That has not happened in my area, and it has not happened because of the lack of coordination between the agencies that are involved there. One says one thing, the other says the other thing.

If the administration is committed, as they keep saying

they are, I am saying get off the dime and be sure that something is done. It has just taken an inordinate amount of time to get this done. I know we have to wait. We cannot get everything done overnight. But I strongly believe that a better schedule or sequence of things could be done than were done in the past.

Mr. Frampton. Well, I promise to work with you on this and see if we cannot deliver.

Mrs. Meek. Thank you. I have something else, but I do not have the time, Mr. Chairman. I will submit it.

Mr. Walsh. You better go vote. You have about 3 minutes.

All right. Mr. Knollenberg?

Mr. Knollenberg. Mr. Chairman, thank you.

Mr. Frampton, good to see you again. I want to thank you for making an appearance in my office a few days ago. We got into some discussion about some items that are of importance to both of us. And I remember at that meeting I think you described the CEQ as the umbrella that coordinates the administration's environmental policy; in other words, you work with other agencies in order to ensure some kind of coherent environmental policy. That is briefly, I think, what you said. Does that sound---

Mr. Frampton. I hope----

Mr. Knollenberg. It sounds reflective of what you did say? Okay.

CLIMATE CHANGE

Let me talk a little bit about an issue that I know has come up probably previously--I was tardy, attending another hearing--and that is the climate change issue. No stranger to either one of us.

In the 25th anniversary report of the Council on Environmental Quality, your agency states--and I want to kind of paraphrase that--in fact, I am not paraphrasing. I am reading it literally, and I will include that, of course, in writing for the record. ``Despite the substantial success of actions under the plan, it now appears likely that the U.S. will fall far short of the original goal of returning net greenhouse gas emissions to 1990 levels by the year 2000.'' You are well aware of that, I know.

``Stronger than expected economic growth and lower than expected energy prices have pushed energy use higher, thus requiring greater reductions than initially called for in the plan to achieve stabilization at 1990 levels.'' That is on page 218 of book which I have right here.

Although I know this was written 4 years ago and it was not under your watch, this passage alarms me substantially. It sounds to me like the CEQ would prefer a weak economy or a stagnant economy with little or no growth. And, you know, the President is happy with the economy, the Republicans are happy with it, the Democrats are, and I think the people are. It appears from this passage that CEQ appears to be one of the few that is disheartened by this.

Russia, for example--I bring Russia up as an example--is going to be able to meet the 1990 target or the Kyoto Protocol targets. But, obviously, you know Russia is in a shambles

economically, environmentally, and otherwise. And that is how Russia is able to meet these targets.

I could point to some more industrialized progressive countries who are meeting it in other ways, nuclear being one, but it almost appears to me that the CEQ likes the Russian model of economic disaster. And I presume they do not, but I would like for you to tell me: Does CEQ still stand by that passage? I know it was not on your watch, but it is in the book. I would like to have your reaction.

Mr. Frampton. Well, from your quotation, Congressman, I do not hear that----

Mr. Knollenberg. It is in the book.

Mr. Frampton. I do not hear that as a value-laden statement. I hear that as an observation that was made about economic trends and prices and carbon emissions, which continues to be a true, factual statement of what is happening. We have had terrific growth in this country, we have had low energy prices, and we have had increasing carbon emissions rather than reducing carbon emissions.

Mr. Knollenberg. And a booming economy.

Mr. Frampton. And a booming economy. But that is not--I do not read that as a value-laden statement.

Let me say this: I think everybody recognizes, whether or not they agree that the administration is implementing these values, that the environmental program of President Clinton from the beginning has been to try to meet significant environmental goals while still meeting economic and social needs of the country. And I think----

Mr. Knollenberg. Let me talk about that point--

Mr. Frampton. You asked about the climate program. I think our climate program actually embodies those values when you look at what the administration is doing on this subject, whether it is investment in technology or renewable energy, tax credits for efficient building equipment and automobiles, or this year's new proposed----

KYOTO PROTOCOL

Mr. Knollenberg. Let me interrupt you. I understand the direction you are going here. I am going to remind you of a couple things, one being the Byrd-Hagel resolution which says very directly--and it was passed by a vote of 95-0--that the Kyoto agreement should not be signed if it does two things, very simply: one is if it impacts negatively the American economy; and, number two, it does not include the developing world, it includes just the industrial world. And the administration signed that treaty. They looked the other way from the Senate.

Subsequent to that, in the 105th Congress, in last year's bill there is language worked out by Mr. Mollohan, myself, and Senator Byrd that prohibits--and we can read that language, too. I know you are familiar with it. I notice that it is bracketed in the bill that the administration--I should say the budget that the administration had submitted, suggesting to me that it is being deleted, that that language is being deleted.

It tells me, then, that there is some movement afoot to implement, as you and I have talked about, the Kyoto agreement

through the back door via a number of methods.

Now, you and I have talked, and you have said that the administration is going to lean away from implementation. But these are steps that bother me, that concern me, and I believe that it points out that while it may not be the Russian model you are subscribing to here and that was in the book, it suggests that there is still a movement to in some fashion craft, confect, or carve out ways to implement this treaty.

Let me just very quickly remind you, too--and I know you know this--that this language that was worked out that is in the bill passed the House by 409-14. It was overwhelmingly supported in the Senate by a vote of 96-1. So this prohibition is, I think, pretty clear. It is bipartisan. The President signed it. And so I stop there and say to you, maybe with a question: Is CEQ planning to issue any rules, regulations, decrees, or orders for the purpose of implementation--and I am just reading the words--or in preparation for implementation of the Kyoto Protocol? That was the language worked out with Mr. Mollohan, with Senator Byrd, after a considerable length of time.

So the question is: Does CEQ plan to issue any regulations, rules, decrees that would implement it?

Mr. Frampton. The answer to that is no, and I am glad you asked this question so that I could put our position once again on the record and reiterate the conversation you and I had when we were off.

Neither CEQ nor any other----

Mr. Knollenberg. Nor EPA?

Mr. Frampton [continuing]. Department or agency of the executive branch has any intention to do anything to pre-implement the Kyoto Protocol, and as I said to you, I think the administration is very clear and very conscious of not only the law, but the policy dictate. It has adopted the policy dictate that we are not going to pre-implement the Kyoto Protocol; that there is a bright line between steps to pre-implement the protocol on the one hand and the things that the administration is doing right now, it proposes to do.

In fact, I said to you that I was going to convince you and get you to agree with me by this summer that everything that we are doing----

Mr. Knollenberg. Are you watching your clock?

Mr. Frampton [continuing]. Falls far short of pre-implementation, including our investment program, our clean air fund, and even the actions that the Senate is beginning to take a look at the credit for early action.

So we are very conscious of that bright line, and we are going to stay on the side which the President laid out last year. It was 5 years of voluntary incentives and other actions, investments and incentives and voluntary actions to try to reduce greenhouse gas emissions, which is a goal of a ratified treaty.

Mr. Knollenberg. Yes. Well, there are two questions.

Mr. Frampton. We are aware of that, and we are going to stay short.

Let me respond to your questions about why that is----

Mr. Knollenberg. Why the language is deleted?

Mr. Frampton. Correct.

I think it says very clearly in the President's budget that we have no intention of doing anything different, but in the view of the administration, it is a matter of comity between the executive and the legislative branch. We regard that as a rider. We took a very strong position last year and continue to take a strong position about the riders, and we are, therefore, not proposing----

Mr. Knollenberg. Well, if the President signed it, why not just keep it in there? It is in there now.

Mr. Frampton. Well, in the final analysis, the President signed a bill that included a lot of things that the administration does not support and would not propose.

CO2 Green House Gases

Mr. Knollenberg. Let me ask you one final question here. This attaches itself specifically to the CO2 question. Is the CEQ planning to issue again--and I am going to read the rule or read the language as it is stated in the bill: ``any rules, regulations, decrees or orders regarding CO2 or greenhouse gases or climate change.'' This is a bit of expansion on the previous question because now we are talking more specifically about CO2.

I asked you the question in my office with respect to is there an effort being made to include CO2 as a pollutant, consider it as a pollutant under the Clean Air Act. I think at that time, it was kind of murky. You were not clear as to where I had heard that or why that would be something that we would be thinking about, but, very honestly, we have heard a fair amount about it, if not through Chafee and Lieberman, that bill perhaps through some other potential legislation which may or may not have been introduced or may still be in the formative stages, but is there any plan to bring CO2 under the CEQ, or, to your knowledge, under EPA?

I know EPA is one of those agencies you work with to umbrella all of these things. So that is why I ask the question to you.

Mr. Frampton. Well, CEQ is not a regulatory agency, sir. When you asked whether there is any plan to create CO2 within the gambit of the Federal Government, the administration has a very aggressive plan of including climate change technology initiatives and various other programs that are in the budget that are designed to structure programs of health, reduce CO2. So, obviously, carbon dioxide is an issue in DOE's budget, in EPA's budget. It has been for many years.

Credit For Early Action

On the question of the credit for early action legislation, you and I discussed the proposal that was introduced last year that is going to be reintroduced for credit for early action in the Senate Environment and Public Works Committee by Senators Chafee, Mack, and Lieberman, they take jurisdiction because of their jurisdiction over EPA and the Clean Air Act.

The President did say in his State of the Union message

that we would like to work with the Congress to consider credit for early action legislation, but how that would be done, however, is really up to the Congress. It will be done only if there is bipartisan support for it.

Mr. Knollenberg. Yes. The Congress' concern, there is a strong correlation here between all the studies that have been conducted. The Department of Energy, in fact, has had six lab studies that prove that this is going to be, if it is implemented--and that is why we are so concerned about what back-door potential there might be for implementation, what the impact would be on the economy if we do not include the developing nations of the world in some fashion.

I mentioned China and India and Mexico and Brazil as coming to a component of some 40-plus percent of the world's population who are getting a free ride.

So it is a concern of ours, and we do not want to see a policy, a directive, that looks in the direction of making a punk economy the goal, and if any of this were to move in that direction--I know that you will tell me that that is not the intention, but that is our concern about why this language is deleted, why it is bracketed. Why not just leave it alone? Because, frankly, with the voluntary actions that are being taken, we could probably reach a goal that you and I would both agree is on the right track, and it does not harm the economy because we know it does not.

Mr. Frampton. Congressman, we have differences over issues related to climate, you and the administration, related to climate policy, but how could anyone say, given particularly your view that this has been an administration that has pushed hard on climate issues, harder than you would have liked perhaps, been pushed hard on a number of other environmental issues--this administration has been very directly and very aggressively identified with environmental protection. I think that is fair to say.

Look at what has happened with the economy in the last 6 years. How could any reasonable person----

Mr. Knollenberg. You attribute that to the economy? Could I interrupt you? I think you and I have a difference of opinion on that one, too.

Economy and Environmental Protection

Mr. Frampton. But how could any reasonable person say that this administration has not only held up the value, but realized the value of having a strong economy and environmental protection at the same time when you look at the last 6 years? What other administration in the last 25 years has been able to say we took aggressive steps to protect the environment and we made the economy go? And those two things happened.

Mr. Knollenberg. I think we could carry this on for some time. I do not want to get into somebody else's time, but let me just say, you have given me the assurance that you would not cross that line, and I would just tell you that our responsibility is to make sure that you do not. We will be watching every step of the way, as I am sure that you will be pushing from the other direction. I guess good policy is a result of opposing forces, but I do see some opposing forces

here that I think we may be able to soften a little bit so that there is progress, but it is done in a fashion that is voluntary and not so much pushed by targeted tax cuts that very honestly costs. That costs money in the end, and taxpayers are floating that bill. It only benefits a few. It does not benefit as many as we could possibly do under, say, some other methods.

Anyhow, I think you have answered the questions to the extent that I would expect at this time, and I look forward to working with you.

Mr. Frampton. Thank you.

Clean Air

Mr. Walsh. I have two observations before I go to Mr. Price.

One, having just visited India and having been there 30 years ago, they are going backwards fast, and we really do need--if there is going to be an international agreement on air, we have got to do something if, for no other reason, to help those poor people deal with the emphysema and all the other lung diseases that are occurring where the air is absolutely foul in any city more than a half-a-million people in India. I am sure that is throughout Asia.

By the way, we may agree environmentally on more than Joe and I agree on, but I have to say that there is no question that some of our environmental policy has pushed a lot of the dirty business out of the United States overseas or offshore, so that while we have improved our own environment, we have damaged in some instances the industrial sector of the country.

If you would care to respond, go ahead. If not, I will go to Mr. Price.

Mr. Price? [Laughter.]

Mr. Frampton. That sounds like another half-hour dialogue, Mr. Chairman.

Mr. Walsh. It does.

Mr. Price. I will be very quick. I apologize for my late arrival. We have multiple hearings going, but I do want to add my welcome to you as the prospective chairman of the Council on the Environmental Quality. I have had positive interactions with your office in the past, and I look forward to that continuing.

American Heritage Rivers

One CEQ program I have been particularly interested in is the American Heritage Rivers initiative. There was initially, and may still be, some misunderstanding about the scope of this program and some suspicion about its intent. From my point of view, I think it is a good program, and it, in fact, is an example of how the Federal Government can work cooperatively, providing local communities with the resources they need to help achieve locally defined goals. That seems to be the way the program is designed, and in my experience the way it has worked.

I was very pleased to learn last year that the New River in North Carolina would be one of the first American Heritage Rivers. The new river does not flow through my district, but it

is an important waterway in the western part of our State, as well as in Virginia and West Virginia.

I am not sure if you have already touched on this American Heritage Rivers program this morning, but in any event----

Mr. Mollohan. It is the oldest river in the Nation.

Mr. Price. Yes. As Mr. Mollohan says, it is the oldest river in the Nation, and it is one of 10 in this initial group of designated rivers.

I wonder if you could briefly give us an update on how this program has worked so far, and I hope you can comment particularly on any successes or challenges associated with the New River.

Mr. Frampton. Well, Congressman, thank you for asking the question.

I gather that last year, there was some suspicion about the American Heritage Rivers program as some sort of threat to private property rights. Frankly, I just cannot understand that because it seems to me that a program that is lighter on Federal involvement, with no new Federal programs, no new Federal money, that is more voluntary and more designed to rely on local action could hardly be imagined I think this is a terrific program.

It is basically designed to encourage and catalyze local governments, private businesses, non-profits to organize around river segments and both clean up and economic development, come forward with a promise that the people who did that would hopefully get some opportunity to get a little more coordinated Federal help.

In fact, the experience with the program has been terrific. I think there were 120 or 125 applicants from what were originally going to be 10 designated rivers, 500 mayors, 200 members of Congress, more than 20 Governors sponsoring these applications, and we ended up picking 14 rivers to designate, not 10.

I went to the first signing of a memorandum of understanding about a month ago for the Rio Grande River. It was in the Old Executive Office Building. It was a signing of a piece of paper. There were hundreds of people there, Congressman Reyes and three or four mayors, business people from Mexico and the United States, environmentalists, and Federal officials. They thought this was great, and they are focussing on education. That is one of the three or four things they are focussing on.

So we are getting going with this program, and I think what we have done is we have created a tremendous amount of impetus for local people to work together.

I know that the New River has gotten a Federal grant, but, actually, I think on the New River, one of the major things that has happened is State money has been forthcoming, at least a \$350,000 or \$400,000--I do not remember exactly--grant that came primarily because of the action plan that was put together by the parties there.

So it is not just a matter of people applying for Federal goodies. When you have people at the local level getting together and saying how can we get organized and do something good in our community, around a river, that you never know where the benefits are going to come from.

Mr. Price. Just briefly, what are the plans beyond this initial 14 designations?

Mr. Frampton. Well, right now, we have no plans to designate any additional rivers, as far as I know. We really need to show that this can be effective, and what we are in the process of doing is trying to complete the memorandums of understanding between Federal agencies for each of the rivers, to find so-called river navigators, the Federal coordinating person for each river, and an agency that adopts the river and helps to coordinate Federal programs.

So I think for the next year, we are really going to focus on showing these 14 can make a difference.

Mr. Price. Good. Thank you.

Mr. Walsh. Thank you, Mr. Price.

Unless anyone else has any further questions----

Mr. Knollenberg. Mr. Chairman, I do have a couple of questions. I will submit them in writing for your response.

Mr. Frampton. Thank you.

Mr. Walsh. Without objection.

Mrs. Meek also had a question, and we do, also.

So thank you very much, Mr. Frampton for your time today, and we will do the best we can.

Mr. Frampton. Thank you. Thanks for the water glass, too.

Mr. Walsh. No problem.

[Questions and answers of this panel follow:]

Offset Folios 632 to 715 Insert here

Wednesday, February 24, 1999.

AMERICAN BATTLE MONUMENTS COMMISSION

WITNESSES

GENERAL FRED F. WOERNER, USA [RET], CHAIRMAN

KENNETH S. POND, SES, EXECUTIVE DIRECTOR

COLONEL ANTHONY N. COREA, USAF, DIRECTOR, OPERATIONS AND FINANCE

COLONEL DALE F. MEANS, USA, DIRECTOR, ENGINEERING AND MAINTENANCE

JAMES AYLWARD, EXECUTIVE DIRECTOR, WORLD WAR II MEMORIAL PROJECT

Mr. Walsh. Our final hearing this morning will focus on the budget request of the American Battle Monuments Commission.

By way of very brief background, the Commission operates and maintains 24 permanent American military cemetery memorials, 31 monuments, memorials, markers, and offices in 15 countries around the world.

Within the United States and the U.S. Commonwealth of the Northern Mariana Islands and in the British Dependency of Gibraltar, such operation and maintenance requirement include care and upkeep of 131,000 graves and headstones, 73 memorial structures, 41 quarters, utilities, and maintenance facilities, 67 miles of roads and paths, 911 acres of flowering plants, fine lawns and meadows, 3 million square feet of shrubs and hedges, and 11,000 ornamental trees.

I am not sure why I am reading all of this, but it is here. So it is in the record.

In short, this is a very big and, I should say, very

important mission in light of what these following men and women have sacrificed to preserve the freedom of our Nation.

For fiscal year 2000, the ABMC has requested \$26,467,000, an increase of just \$36,000 above fiscal year 1999.

Testifying on behalf of the Commission again this year is General Fred Woerner, United States Army [RET].

General Woerner, we welcome you back to the committee. I would note for the record that the Commission's Secretary, Major General John Herrling, is ill.

General, I had a long day yesterday, and I apologize. I did not get to my notes until about 10:30 last night.

General Woerner, please convey the best wishes of the committee to General Herrling for a speedy recovery.

General Woerner. Thank you, sir.

Mr. Walsh. In a moment, I will ask you to introduce your colleagues and summarize your statement. Your full statement will appear in the record, and before doing so, I would yield to the ranking member, Mr. Mollohan, for any comments he may have.

Mr. Mollohan. I do not have any comments. Thank you.

Mr. Walsh. Thank you.

Opening Statement

General Woerner, it is your turn.

General Woerner. Thank you, sir.

Mr. Chairman and members of the committee, on behalf of the commissioners of the American Battle Monuments Commission, I am pleased to be appear before you today, and I congratulate you, sir, on your appointment as chairman of this committee, and I thank you and the Members of the committee for your support over the many past years, and in particular for your budgetary augmentation of the last 2 years which I will return to.

With me today are Mr. Kenneth Pond, executive director of the American Battle Monuments Commission; Colonel Tony Corea, to my rear, Director of Operations and Finance; along with Colonel Dale Means, Director of Engineering and Maintenance. Mr. Jim Aylward is the executive director of the World War II Memorial Project that I will comment upon.

Gentlemen, the special nature of the American Battle Monuments Commission does place it in a unique and highly responsible position to the American people. Simply, the manner in which we care for our honored war dead reflects the regard with which we, as a Nation, hold their service and sacrifice.

We do this through the establishment of memorial shrines, monuments, and military burial grounds on foreign soil.

The American Battle Monuments Commission maintains 24 permanent cemeteries and numerous monuments, memorials, and markers, as you have said, sir, in 15 countries around the world.

We have eight World War I cemeteries, 14 World War II cemeteries, and these are located in Europe, the Mediterranean, North Africa, and the Philippines.

We also, in addition to these, are responsible for American cemeteries in Mexico City and in the Republic of Panama.

Interred are approximately 125,000 service men and women from the Mexican War, World War I, and World War II. Also,

there are about 5,000 American citizens interred in our cemetery in Panama.

Finally, we have honored 94,000 more service members by inscribing their names on the walls of the missing, those that were missing in action, lost, or buried at sea.

The care of these cemeteries and memorials requires a significant annual program of maintenance, repair of facilities, equipment, and grounds. This maintenance is extraordinarily labor-intensive, and therefore, our personnel costs account for a full 62 percent of our budget that we are requesting for fiscal year 2000.

The remaining 38 percent of our budget must fund our operations in total, engineering, maintenance, utilities, supplies, equipment, and administrative costs.

During fiscal year 1998, as part of our Strategic Plan, and at the request of the Office of Management and Budget, we conducted the first comprehensive manpower survey of the European and Mediterranean cemeteries since 1982. This study is helping us define manpower requirements for each of our cemeteries.

To ensure that we continue to maximize the streamlining opportunities and to take advantage of technology, automation, and outsourcing, we are going to conduct this year, along with OMB, a joint review of this manpower survey. It is our intention to constantly work towards the improvement of management to maximize savings.

The Congress has been extraordinarily instrumental in our success in maintaining a high standard of excellence by providing the funds required to accomplish our objectives. The additional funding of \$3 million in fiscal year 1998 and \$2.5 million in fiscal year 1999 for engineering and maintenance projects has allowed us to enhance the safety, the security, the efficiency, and the beauty of our cemeteries. It has also enabled us to reduce significantly our backlog of critical projects.

In order to keep this momentum going, sir, in fiscal year 2000, we are requesting as part of our budget, \$4.3 million for engineering and maintenance projects. This level of funding will allow us to continue to reduce our backlog and stay abreast of the new maintenance requirements, an inherent challenge associated with aging facilities and infrastructure.

In addition, we are requesting funding support on three managerial improvements, an information systems contract, the aforementioned OMB-directed study of our personnel survey findings, and finally, the development of a maintenance database.

In 1996, Congress specifically directed that we prepare an agency-wide financial statement annually beginning with fiscal year 1997 and that the financial statements be audited in accordance with Government auditing standards.

As reported, we received an unqualified opinion or, in my language, a clean audit on our balance sheet, an achievement we are told not normally earned on initial financial statement audits.

We have just completed our second audit and are awaiting the results.

During fiscal year 1997, we contracted with the Department

of Treasury's Financial Management Services Center regarding replacement of our accounting system. We selected an operating system during the next fiscal year, and will implement the system next month.

Our field offices are extraordinarily enthusiastic about the enhanced efficiency we will gain through the integration of multiple outdated systems into a single comprehensive system, which will allow us to take full advantage of the most current financial systems technology.

With continued success in auditing and the parallel implementation of a new integrated financial management system, we expect that our organization will achieve yet a higher level of management excellence.

In addition to our overseas missions, we have been mandated by Congress to construct the World War II Memorial. In November of 1995, President Clinton dedicated the Rainbow Pool site at the east end of the Reflecting Pool, between the Lincoln Memorial and the Washington Monument.

A little over a year later, the President unveiled the winning design by Professor Friedrich St. Florian. This design was reviewed in accordance with law by the Commission of Fine Arts and the National Capital Planning Commission. This review resulted in the requirement to modify the design in order that it would more appropriately fit the Rainbow Pool site.

In April of 1998, we forwarded Professor St. Florian's revised design concept to the Commission of Fine Arts and the National Capital Planning Commission for their consideration and approval. In a public hearing, the Commission of Fine Arts unanimously and, in their words, enthusiastically approved the location, site plan, and revised design concept, and two months later, also in public hearing, the National Capital Planning Commission approved the revised design concept of the World War II Memorial.

Our fund, raising chairman, former Senator Robert Dole, and co-chairman, Mr. Fred Smith, founder of FederalExpress and CEO of FEDEX, continue to work diligently to raise the funds required for construction of the memorial.

To date, we have raised slightly over \$40 million. New films on World War II, for example, ``Saving Private Ryan,'' have substantially raised the awareness of the sacrifices of the World War II generation and hopefully will stimulate generosity.

Mr. Tom Hanks, star of ``Saving Private Ryan,'' has volunteered his support to the World War II Memorial Project in the field of public service advertising. He will be featured, in television, radio, and print, public service ads.

The Commemorative Works Act requires that all necessary monies be on hand prior to breaking ground. We are cognizant of the accelerating loss of the World War II generation, and thus our determination to achieve our financial goals expeditiously so that we may begin construction as soon as possible.

The current authority on the memorial's construction lapses in May 2000. Therefore, the American Battle Monuments Commission is proposing legislation which would extend the authorization to obtain a construction permit for the memorial until the year 2005.

OMB advises that the administration has no objection to the

presentation of this proposal for the consideration of Congress.

In summary, sir, since 1923, the American Battle Monuments Commission cemeteries and memorials have been held to a high standard in order to reflect America's continuing commitment to its war dead, their families, and the U.S. national image. The Commission intends to continue to fulfill this trust, while striving to improve overall management and operational efficiency.

Our appropriation request for fiscal year 2000 is \$26.5 million.

Mr. Chairman, this concludes my statement. I am pleased to respond to your questions, sir.

world war ii memorial

Mr. Walsh. Thank you very much for that fine statement and for the important work that you do.

General Woerner. Thank you, sir.

Mr. Walsh. What is the overall estimated cost--I guess it is not an estimated cost. What is the cost projection for the World War II monument?

General Woerner. Sir, in total ignorance, having no idea where or what we were going to build, but looking at the cost of past structures, we put a mark on the wall of \$100 million.

On April 21st and May 6th of this year, we will go before those two commissions with our preliminary design concept, taking it much further than the original concept.

On their approval, hopefully, we will then be able to turn to the professionals and say this is what we are going to do and we will have a much more refined figure.

We are still using \$100 million, but I would be uncomfortable at this stage to depart from that until we have the benefit of revision of our design and the contributions of the experts who can put dollar values on it, sir.

Mr. Walsh. On the reauthorization of that time limitation that you have----

General Woerner. Yes, sir.

Mr. Walsh [continuing]. I am sure the Veterans Affairs Committee will get that work done. In the event that they did not, I am sure Mr. Mollohan and I could work together to make sure that reauthorization would be included in this bill, if he had any problem.

General Woerner. Thank you very much, sir.

[The information follows:]

Offset Folios 727 to 731 Insert here

Mr. Walsh. I cannot guarantee that, but I think I am pretty close. But I do not anticipate any problem, which is a Plan B sort of situation.

maintenance and engineering

Now, on the backlog, this maintenance issue--and apparently, this is really the only real current issue that you

have. You are obviously doing a good job of knocking it down. The funds that you are putting toward that part of the budget, do you think that will get this behind you?

General Woerner. What we anticipate, we started out in 1998, sir, with \$14.7 million. Thanks to the support of this committee, we took it down in one year to \$10.5 million, down and the beginning of this year to \$6.2 million. Our best projection right now is that by the end of fiscal year 2000, we will be down to \$3.0 million.

Mr. Walsh. By the end of fiscal year 2000?

General Woerner. By the end of the fiscal year.

Mr. Walsh. Okay. How will those funds be spent? What are your priority projects?

General Woerner. Yes, sir. We have worked up a list. We know precisely what we want to do, a prioritized list of 526 projects that I have right here, that have been developed through a three-tier review, by the cemetery superintendents, the overseas headquarters, and the national headquarters here in Washington, D.C., all constantly scrubbing this list.

We have given priority to safety, first and foremost, to health, welfare, and environmental considerations second, to the high priority enhancements and repairs, and then to a secondary level. That has been the framework in which we make judgments in putting these projects on our priority list.

Of course, if something breaks down and it becomes an emergency, then we have to divert funds to reprogramming and get it done.

What I can assure you, sir, is, one, we are confident in the integrity of this list. There is no gold-plating in that, and second, that it is receiving micromanagement to respond to the trust that you have shown in us with that \$3.0 million and \$2.5 million plus-ups over the last two years.

We welcome inspections of these sites, and we can take you down to the dollar on how we have used your money.

Mr. Walsh. I would like to take that opportunity at some point. I do not know when, but I would like very much to see, especially the projects that will be worked on.

General Woerner. We will be in contact with your office and make that happen.

Mr. Walsh. Thank you.

Mr. Mollohan.

cemetery visit

Mr. Mollohan. Mr. Chairman, I want to compliment the General on his testimony and also the good work he is doing. I had an opportunity to visit the cemetery when we were in France last year, and I was very impressed with the operation. I was also impressed with the maintenance concerns, and the program you have undertaken to deal with those concerns.

General Woerner. Thank you.

Mr. Mollohan. The chairman has already explored that area. So I do not have any further questions for the General. I appreciate his testimony, Mr. Chairman.

Mr. Walsh. Thank you.

I will just leave you with one impression of mine. I served in the Peace Corps after college, and I returned home. It took

me about 2 months to get home from Asia. I took my time, saw a little bit of the world on the way back, and as I was traveling from Paris, on my last leg home, to the English Channel to cross, I went through Northern France. I think I was sleeping in the truck. There was a fellow I had met and offered to give me a ride to England. So I took it. The price was right. I woke up, and it was around dawn. I looked out and I just saw row after row after row after row of white cross. I can still see it.

I do not know whether that was one of ours or----

General Woerner. That is one of ours, sir. I can guarantee you that was ours.

Mr. Walsh. It was one of the most remarkable things, manmade in many respects, one of the most remarkable things I have ever seen in my life. It was profound.

General Woerner. There is no nation on the face of the earth that takes care of their War Dead as does the United States. None can compare to us.

Mr. Walsh. Well, it is a commitment that we have to keep.

General Woerner. Yes, sir.

This organization has a passion about what it does, and many of the men and women working in it are doing so out of that compassion and passion, which are other than any salary interests.

Mr. Walsh. Well, we are in good hands, then.

General Woerner. Thank you very much.

Mr. Walsh. Thank you very much, General.

Thank you all.

This hearing is recessed until tomorrow morning at 9:30.

[Questions and answers received from panel follow:]

Offset Folios 736 to 777/1200 Insert here

Thursday, February 25, 1999.

NEIGHBORHOOD REINVESTMENT CORPORATION

WITNESS

GEORGE KNIGHT, EXECUTIVE DIRECTOR

Mr. Walsh. Good morning. The hearing will come to order. I would like to welcome the ladies and gentlemen, the leadership of the Neighborhood Reinvestment Corporation, for their budget review for the Year 2000, Executive Director George Knight is testifying today, and I would like to extend from the subcommittee a welcome to him and his staff.

My colleagues and I look forward to having very substantive discussions with you about this year's budget request.

This year NRC's budget request is unchanged from last year--\$90 million--although there is an increase, a request for three FTEs. Personally I have always been very impressed with the performance of Neighborhood Reinvestment Corporation and its local NeighborWorks' organizations. Routinely the organization maximizes the taxpayers' investment by promoting home ownership and by making neighborhoods stronger

and more sustainable.

As I mentioned, just in a cursory conversation before we began, I was a city councilman. I was the city council president. My dad was the mayor of that same city a generation before. This is what it is all about for me--home ownership, strengthening neighborhoods, reinvesting in our cities. I have had the good fortune of travelling world-wide. I was a Peace Corps volunteer after college. I visited all the great cities in Asia, all the great cities in Europe. Those cities are five and six and ten times older than our cities and they are the centers of the culture. They are the centers of industry. They are the centers of intellectual activity all over the world.

Our cities are babies. They are a hundred or two hundred years old at most and we can't throw them away--sort of our ethic in this country is to keep moving west, you know, use it up and move west. Now they are kind of circling around through the Southwest and headed back maybe, but we have got to take care of our cities and you folks help us to do that. It's very much appreciated.

I am going to allow Mr. Knight to make his presentation but first I would like to yield to Mr. Mollahan for any remarks he might have.

Mr. Mollohan. Mr. Chairman, I don't have any remarks. I do compliment this organization for the fine work they do and appreciate Mr. Knight's testimony.

Mr. Walsh. Thank you. Please proceed.

Mr. Knight. Thank you, Mr. Chairman and members of the committee. We thank you for your support of the NeighborWorks' Network and the Neighborhood Reinvestment Corporation.

the neighborworks' network

Perhaps I don't need to summarize in detail the work of Neighborhood Reinvestment and the NeighborWorks' Network, other than to share with you that the 184 members of the NeighborWorks' Network now serve 825 communities ranging from very rural to very urban. They do share certain common characteristics however. Local residents, members of the private sector, members of the public sector form the Board of Directors. They are all state chartered, nonprofit 501(C)(3) organizations and each of them manages a flexible locally managed revolving loan fund.

They work with local lenders and insurers to make sure that there is conventional lending and insurance products available and if necessary find flexible and alternative products to meet the needs of their community.

They promote the physical, social and economic health of the neighborhood. As we were discussing before the hearing began, it is a faith statement to purchase a home in a distressed neighborhood and one has to bolster that through the physical and social sides as well as the financial package that one puts together for the homeowner.

They must meet Neighborhood Reinvestment's chartering and ongoing performance standards and we work to develop strong local leadership.

neighborhood reinvestment

We were founded in 1978 and we provide technical assistance delivered by a series of practitioner experts scattered across the country. We provide flexible grants through revolving loan funds to both lend, re-lend, user's equity, and to operate those funds. We provide training, nuts and bolts, how-to training, and through NHSA, Neighborhood Housing Services of America, headed by Mary Lee Widener, a unique secondary market that stands ready to purchase the loans made by local NeighborWorks' organizations, thus ensuring local liquidity and enabling them with confidence to continue lending on a basis that is tailored to the family's ability to repay the loan.

fiscal year 1998

1998 was truly an amazing year! The 184 NeighborWorks' organizations were able to assist 13,769 families into home ownership or substantially rehabilitate their homes so they could stay as home owners or acquire mutual or rental properties. This was a 20 percent increase over FY'97. To do this they had to secure nearly \$820 million worth of private and public financing to accomplish that. A 48 percent increase.

fiscal year 1999

In Fiscal Year '99 you were gracious enough to accord us some extra money to support the NeighborWorks' Campaign for Home Ownership 2002 and we worked through a home ownership pilot to expand that campaign from 25,000 to 35,000 new home owners. The two-year pilot requires a significant increase in productivity at the local level. It requires strengthened systems and increased conventional capital and I am very pleased to tell you this morning that our major financial partners are stepping up to the plate with enthusiasm. We believe that the additional \$700 million in private lending capital necessary to accomplish the goals we have set is very, very achievable.

fiscal year 2000

Turning to FY 2000, you'll see that our objectives seek to balance our resources to meet the highly-varied and diverse needs of the communities served by NeighborWorks' organizations. We plan to expand the number of communities served. We plan to charter a few more organizations. We will continue to offer training. We will continue to make grants to revolving loan funds and of course we will continue to support the secondary market, NHSA.

supporting local initiatives

We will provide our technical assistance on a needs-

specific basis at the local level and in three initiatives. The first initiative the committee is well familiar with--the NeighborWorks' Campaign for Home Ownership 2002. We propose to expand it by 7000 families to a total of 42,000 by the end of the campaign, the year 2002.

The second effort, a multifamily initiative, focuses on strengthening the asset management of local NeighborWorks' organizations, developing their resident services, and raising \$600 million in private sector and other investment to enable them to acquire a further 10,000 units to add to their existing 19,000 units.

Finally we will continue to meet the needs of rural communities in small towns through the Rural NeighborWorks' Alliance. This creative group formed by 25 organizations in 1991 has come together to fund creative and innovative ways to meet the unique needs of rural areas.

In Fiscal Year 2000 we look forward at Neighborhood Reinvestment Corporation and speaking for Mary Lee at Neighborhood Housing Services of America to continue our mission to support NeighborWorks' organizations. We think that the building of partnerships between residents, the private sector and the public sector who form strong local Boards of Directors, manage a revolving loan fund, and make their own decisions in terms of strategies and approaches makes the most sense for revitalizing areas in rural, small town suburban and urban America.

I look forward to your questions.

[The information follows:]

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Mr. Walsh. Thank you very much for your clarity and brevity and for the work that you do. It's very, very important. By the way, you were kind enough to introduce your staff to me. Maybe you would like to introduce them to the rest of the subcommittee.

Mr. Knight. I would be delighted.

To my left is Mary Lee Widener, who is the founding President of Neighborhood Housing Services of America, and our sister organization that backs up the revolving loan funds and is headquartered in Oakland, California.

To my right is Roy Davis, who is our Director of Finance and Training. He is our utility player--research and human resources.

In the green sweater is Margo Kelly, who is our Deputy Executive Director of Field Operations and to her right is Clarence Snuggs, who is our Deputy Executive Director for everything else.

Behind me, where I can't twist so well, is Julia Galdo, our Director of Communications and Information Services and Carlos Porrata, who is Director of Information Technology, Program Review and Internal Consulting.

Mr. Walsh. Great. Last year the subcommittee was able to increase NRC's appropriation by \$25 million--from \$65 to \$90 to fund this new home ownership pilot. Is there anything you would like to say about how the implementation of that has gone, other than what you have already said?

Mr. Knight. The challenge to us in setting a 10,000 home owner increase over a two year period was how can you step it up that fast. We felt that it was incumbent upon us to make the commitments to local organizations as quickly as possible.

Within about 10 days of receiving the appropriation we issued the RFP--the Request for Proposals to the NeighborWorks' Network. They had to submit those proposals by early December, I believe, and we made decisions in early January. The 12th of January our Board Committee met to finalize decisions.

We are right now in the process of disbursing the funds to them and I think that that will give us the leg up that we need to achieve that 10,000. I am fully confident we will be able to do it based on the applications that came in. There was a great deal of excitement. I can't tell you how much excitement there was at this real opportunity to meet enormous pent-up demand.

neighborworks' organizations

Mr. Walsh. Could you describe to the subcommittee the kinds of things that the NeighborWorks' organization does in the communities to assist them?

Mr. Knight. It is a wide range of activities.

Fundamentally at the heart of every NeighborWorks' organization is a flexible revolving loan fund. The RLF, directed by a local Board of Directors consisting of residents, financial leaders, and the public sector, very frequently serves as the gap filler in order to effectively execute a revitalization strategy for a designated target area.

If you are in the seat of a member of the Board of Directors or you are an Executive Director, you look out on a large panoply of programmatic resources but they often don't quite mesh. You need that little bit of gap financing, that little bit of gap money to assist someone on the street. Gap money can fulfill a function that no one else is providing. That is what a local NeighborWorks' organization is able to do, so it varies enormously based on each individual community's needs.

It might be buying the largest, ugliest house left in the area. It might be extending second mortgages to elderly families on fixed income who otherwise would lose the home or who can't purchase the home in a very depressed market because no one will lend to them the total cost needed to purchase and fix up.

It might be money to buy a piece of land and hold it for future development. In rural areas, frankly, it is often used to buy land to put in the infrastructure so that a builder will come and build new homes.

Ms. Kelly. Can I add to that answer?

Mr. Knight. Yes.

Ms. Kelly. But I think it is important to say that each NeighborWorks' organization starts with organizing the neighborhood to have a strategy for upgrading it and then market that strategy to all of the residents and gain their involvement and investment in the neighborhood, and so in doing that it is extremely important that if they say to people-- ``invest in your homes, we are going to be there for you, work with you in getting the resources that you need,' '--then it is very important that the resources be there when people--when those expectations are raised, so in the raising of those expectations then the tight money that George just described needs to be there.

multifamily initiative

Mr. Walsh. On your multifamily initiative, how would you say this aspect of the program is going?

Mr. Knight. For many years NeighborWorks' organization have been in the multifamily ownership position. In many cases they have sort of backed into it. For example, there was no one else to purchase the small, four unit, eight unit, twelve unit building in the neighborhood and so the NeighborWorks' organizations ended up acquiring it.

We watched the numbers grow past 5,000 units, to 10,000 units. Some NeighborWorks' organizations decided to specialize in multifamily and set out to acquire large numbers of units. In fact, our affiliate in Anchorage now owns over a thousand units principally purchased when the market would go down. The units were really very distressed. They would go in. They would acquire them.

So the initiative came together by the NeighborWorks' Network saying we need to do certain things. We need to have some common asset management understanding, we need to understand how we can better manage these properties financially, from a property management point of view, and from a social point of view.

That led them to also be interested in resident services. Many of them run a day-care center, an after school program. Those are areas where Neighborhood Reinvestment has not had particular expertise and so they ask us to put them in touch as a group with folks who do have expertise in those areas. Finally they look out and they see that there are a lot of distressed multifamily properties and their interest is in acquiring some of those properties.

When owners own portfolios across several states it is very hard, if you are located in one place, to acquire just a piece, so their thinking is maybe they can do some joint acquisition and then redistribute among themselves.

Ms. Kelly. George, can I just add, using Syracuse as an example because it is a good one. The Syracuse NHS through its Model Neighborhood Corporation as you know has been in the business for a long time. They really focused on the neighborhoods, not just on individual homes but on strengthening neighborhoods and they recently purchased 105

units of housing in 49 properties owned by a gentleman who was notoriously not caring for those properties, and it was something that they felt they needed to do because these were having such a blighting influence on the neighborhood that they are now suddenly in the business of owning and managing multifamily properties.

By participating in this multifamily initiative they get training and expertise in asset management. They get access to funds that they wouldn't have had access to otherwise for repairs, so we see it as a way of helping not just the large producers but the organizations that are getting into this business because it is critical for their neighborhoods.

Mr. Walsh. Thank you. Now I'll turn to my colleague and ranking member, Mr. Mollohan for questions.

neighborworks' communities

Mr. Mollohan. Thank you, Mr. Chairman. Again, welcome to the committee.

I am curious. You can't work in every neighborhood. You can't work in every town or every rural area. How do you choose the communities in which you work? I know how you chose the ones in my area in which you work.

Mr. Knight. Well, we look obviously where there is need. That's a lot of places that meet that criterion. We look for frankly where there is the possibility of a strong, enduring partnership because we are not the long-term funder of their operating budget. So we look where we think there is a strong enduring partnership and ongoing local support.

I would have to probably say there is a certain level of persistence that is needed when you have hundreds and hundreds of requests, and we can't meet them all. So some organizations just get really persistent and bring their need to the table in that kind of way.

We try to balance out geographically, because we have a limited staff. We try and balance out where we have staff energy across the country so if we are going to be starting a dozen organizations, working with a dozen organizations a year, they are probably going to be scattered across the country where we have staff that are able to respond. For example, let's look at a situation--Roswell, New Mexico comes to mind--a town of great need, a town that was very persistent. We just didn't think that they could sustain a partnership over time. So we turned to the Santa Fe NeighborWorks' organization and said, is there anything that you can do? Can you talk with these folks? And now, about a year-and-a-half later, the Santa Fe NeighborWorks' organization is working in Roswell and meeting a lot of those needs. This is an increasing trend, I would say, of how we meet the need.

Montana is another example that is working out in a slightly different way. We, for a number of years, had had requests from Eastern Montana, very small communities. Many of them are less than 5,000 people, who couldn't meet the test of an ongoing organization, and yet had desperate need. Our Great Falls affiliate, working with rural conservation and development association folks, have now worked out a very innovative partnership in

much of rural Montana. The rural conservation folks, who are located in small communities, do a lot of preliminary home ownership counseling. When they feel a family is ready to borrow funds, whether it is from a conventional lender, that is in an area that is not terribly well served by conventional lenders either, the Great Falls NHS will come out to them, work with those families, and complete the loan package and secure the resources.

The rural conservation folks are quite expert in watching the rehab being done and making sure it is done well. So in each place, we are watching these different partnerships evolve and they are really fun, but there is no common answer.

Ms. Kelly. George, we do things, just from a procedural standpoint, we do on annual basis----

Mr. Walsh. Why don't you come on up and sit at the table? We have got an extra seat. Come on up.

Ms. Kelly. We do, on an annual basis, advertise, to let communities know that our services are available. We have an application process. We exchange a fair amount of information. We have a relatively straightforward application. We do on-site assessment, certainly, on more sites than we are able to develop organizational affiliates. Last year, for example, we had 16 new organizations. They were in 12 different states and Puerto Rico. Over half of them were in rural environments, another third were in small cities.

So it is really, a stretch across the country. And the wonderful thing is that with the revolving loan fund and the sort of partnership based approach, we haven't found an environment where that can't be successful.

Mr. Mollohan. It doesn't work unless you have a local organization that is capable of interfacing with you.

Ms. Kelly. Exactly.

Mr. Knight. Local energy, local drive, and local management.

neighborhood reinvestment's relationship with neighborworks organizations

Mr. Mollohan. Do you tend to maintain your relationships with an organization once it is established?

Mr. Knight. We are there till death. Neighborhoods typically do not become distressed or disinvested over night, and they typically do not turn around overnight.

Mr. Mollohan. But what is the trend? Once you establish a relationship with an organization, how many of these organizations themselves endure?

Mr. Knight. This year is the 25th anniversary for the first large set of NeighborWorks organizations. We have a number of organizations that have been around for 25 years, a number that have been around 20 years, 15 years, 10 years.

Mr. Mollohan. My question, I just want to get a sense of, once an organization, a local organization, is created, and you establish a relationship with them, I am just interested in understanding, do they tend to stay around?

Mr. Knight. Absolutely. The overwhelming majority. Now, there are cases where--we have had cases where an organization has said, ``we felt we have accomplished what we set out to accomplish, and there are other priorities in this community'',

and that is a good ending, a celebration. There are some bad endings at times, an organization that gets in deep, deep trouble.

Mr. Molloyhan. But typically?

Mr. Knight. Typically, the overwhelming majority have been around a long time.

Mr. Molloyhan. That really speaks well for the local initiative, empowered with a little expertise. It is a nice model.

Mr. Knight. Yes.

Ms. Kelly. And they, they go through periods. I mean these are small organizations, an executive director leaves, they have a void in leadership. That is where we can be particularly helpful, step in, provide some interim leadership while the board regroups. That is essentially what has occurred in Miami. I think that organization will be doubly strong coming back as a result of that.

Mr. Molloyhan. I didn't get into the questions I was going to ask, Mr. Chairman, but I am going to submit them for the record. There's a lot of secondary market questions, that kind of thing, that I had, but I will submit them for the record.

Mr. Walsh. Without objection.

Mr. Molloyhan. Thank you, Mr. Chairman.

Mr. Walsh. Mrs. Northup.

Mrs. Northup. Sorry.

Mr. Walsh. We can go to somebody else.

enterprise zones and enterprise communities

Mrs. Northup. No, I do have my questions here.

Now, I wondered how closely you all work with the enterprise community, with the enterprise zones in those communities that actually have those?

Mr. Knight. The Neighborhood Reinvestment works, with a local organization. In Louisville, it is the Neighborhood Housing Services. Many of them are very involved in enterprise communities in enterprise zones. We really take our cue, if you will, from those local organizations. If there are particular things that they are interested in, then we will respond to that. We do not generally attempt to require them, because we can't, to get involved in a particular activity. We may encourage them or provide them with information.

Mrs. Northup. I am new to this Subcommittee, and so I may be asking fairly basic questions.

Mr. Knight. No, no.

Mrs. Northup. But I was not familiar with the one in Louisville and I was sort of surprised about that. I recognize a lot of the people that are on the board. But I am trying to get a feel for, but it might work in several neighborhoods, I assume, not just one.

Mr. Knight. Correct. Again, that is a local decision. Some organizations start off focusing on a very defined area. Some start off in a wider area. Often, as they grow, they may begin to operate in different parts of town. We have had some now, that, as I was describing earlier, have grown beyond the town to the rural area. Des Moines, for years and years, worked in a couple of sections of the city of Des Moines. It is now serving

12 rural counties.

Mrs. Northup. The reason I asked my original question about the enterprise communities, enterprise zones is to--we did not get the enterprise zone classification, much to our disappointment, but we do have a Community Development Bank, and it seems to me like much of what they are trying to accomplish is also neighborhood by neighborhood, very engaged with the community. I wondered if there was any duplication, you know, if you feel like you just can't have enough energies out there, or whether there is a need for better communication and coordination between organizations that have the same goal?

Mr. Knight. I am not familiar with the particulars of your situation, but, in general---

Mrs. Northup. More overall.

Mr. Knight. In general, I think, from our perspective, and I think from virtually every NeighborWorks organization's perspective, duplication is just a waste of energy and time. There is a lot of need. These are very block and street oriented organizations that are looking for resources which meet this person's need, that person's need, this corner property's need, this vacant lot's need. So if there is a development bank there that meets certain needs, hey, that's great, that's the place to go to.

The revolving loan fund is really the gap filler, it is never the first resource, it is always the second or third resource. The first resource is typically going to be a private lender, a development bank. The second resource may be a public program that is available. But what we have found over the years is that no matter how well designed those little programs are, with their individual boxes and categories, there are situations that fall between the gaps. You have got to have some funds that the local board of directors can lend, tailored to the family's ability to repay or the individual situation.

And then, once they lend them, they have got to be able to lend them without worrying about--Can I get my money back? Am I running out of money? Do I have to push the person to a little higher interest rate so that I can sell the loan and get some of my money back? And that is where NHSA comes in, if the local board makes a 3 percent loan to somebody for \$7,000, they can turn to the NHS secondary market and say, here is the loan, and NHSA sends them the \$7,000. The local NeighborWorks organization sends NHSA the 3% interest collected from the loan.

If the loan goes bad after 90 days, the local NHS has to take the loan back or replace it with a performing loan. That keeps the local folks responsible for servicing the loan. It also makes them responsible in the first place, when they sit down with the family, to create a loan based on what the family can afford.

We carried the same principles into the NeighborWorks campaign for home ownership. So, the typical--in the first campaign that ended in 1998 and produced 16,000 new homeowners, the typical family spent 20 percent--I think it was 21 percent of their income for principle, interest, taxes and insurance, because we are working with lower income families.

Mrs. Northup. Right.

Mr. Knight. So it is a gap filler.

Mrs. Northup. Yes.

fannie mae

Mrs. Northup. What sort of coordination is there with, for example, Fannie Mae?

Mr. Knight. Oh, at the local level, a tremendous amount. Fannie Mae, of course, is the principal buyer of mortgages from the conventional lenders. Any conventional lender that is making loans in a neighborhood is probably going to use the Fannie or Freddie guidelines to purchase.

Mrs. Northup. To purchase.

Mr. Knight. If you are in a depressed neighborhood, a neighborhood in which a home might be purchased for \$30,000, but need \$20,000 in rehabilitation, a lender is not going to make that loan, because \$50,000 is going to put you over the market price. So a lender will make maybe 80 percent of an after-rehab value, say, \$35,000. Well, who makes up the difference? That is the revolving loan fund's role.

Mrs. Northup. I see.

Ms. Kelly. George, it might be worth just mentioning, in terms of Fannie Mae, in particular, because they have established local partnership offices. Most of our organizations are very closely connected I am thinking of Miami as an example where Fannie Mae, the Federal Reserve, Neighborhood Reinvestment and the Housing Finance Agency are together looking at establishing a city-wide home ownership center, which really could expand home ownership production and activity in that city beyond what anyone could do alone.

So we really work very hard to mesh with whatever is going on locally so we can capitalize on it.

Mr. Knight. And there is another role for Fannie Mae, in that many smaller lenders are not seller-servicers to Fannie Mae or Freddie Mac. They don't have enough volume. They don't have the staffing. So we have worked out with a lot of those smaller lenders that if they will make the conventional loan, because that is what we are interested in, there is so much more conventional capital than there is, with all due respect, public capital.

Mrs. Northup. Right.

Mr. Knight. There is so much more conventional capital. We want them to make the loans. Unless they have an outlet, even they get choked, particularly, the smaller lenders. So for capital, NHSA will actually purchase their loans, package them in a correct Fannie Mae, Freddie Mac way, and then sell them to social investors.

Ms. Widener. In bulk.

Mr. Knight. In bulk. They don't want to buy onesies and twosies on a small basis.

Mrs. Northup. Is my time up?

Mr. Walsh. You are getting there.

Mrs. Northup. Do I have time for one more? Why don't we go on, because we have a vote. That's fine, I will submit.

Mr. Walsh. All right.

Mrs. Meek. I am going to vote, Mr. Chairman.

Mr. Walsh. All right. Why don't we all go and vote then.

Since it is Mrs. Meek's turn, why don't we vote and come back right after we vote. It will just take a second.

[Recess.]

Mrs. Northup (presiding). I think our chairman, Mr. Walsh, will be back in short order, but I am going to go on and turn to Mrs. Meek.

training

Mrs. Meek. Thank you. I don't think I need the mike, but I'll get it anyway.

First of all, Mr. Knight, we're very happy to see you and your staff back. We want to thank you for the excellent work which you have done in the past, and looking at your budget it appears that you are prepared to go forward in the future.

I just--I think what you have been able to do with the amount of money you have received is really exemplary. I have been aware of your organization and working with your organization for many, many years. I want to commend you for having the capacity to hang in there sometimes when things got a little rough and gave the kind of assistance that you needed to give, technical assistance, as well as the loan fund to my local NHS. And this organization is really needed, very much needed, particularly in cities. And I want the chairlady to realize that in these cities where housing is so very, very important, many times your organization is sort of the spark to begin it, because you were there earlier than most other groups.

In my city you have made a very good contribution. You have combined with the housing finance authority, with the Coalition of CDC's, they all kind of work together, and the private sector has come in to help, not as much as we would like now, in that there are many more organizations now pulling for the same dollar.

My question to you is, NHS is not going to last forever. You cannot. And even if you are around forever, you will find other cities and other neighborhoods that you might want to invest in. What kind of training and what kind of initiative is your agency making to make your units more self-sustaining? That is a problem that comes up all the time. Where will we be in the year 2005? What can we do now that will make us more self-sustaining at that time?

Now other groups like the Housing Finance Authority, they do not have that problem. They have seed capital and everything to last. Tell me what plans do you tell your affiliates, what do you tell them? What about planning? What are you putting in their heads for the year 2005 and beyond?

Mr. Knight. Well, first I want to thank you particularly for that afternoon on the map where you were able to provide your local intelligence of what was going on in Miami. That was enormously helpful to us, and we really appreciate it very much.

The self-sustaining question and the training is something that I think goes to the heart of a lot of our current work. By building up the revolving loan fund, by focusing on loans, when you get to a certain size, you can become self-sustaining. It takes a long time to get to that size. We now have several organizations that are virtually self-sustaining. Some of them

own property and they have bought it in ways that the rents from the property help them become self-sustaining. The revolving loan fund, growing to a very large revolving loan fund, can also be self-sustaining.

I think the question you are asking really is the question we direct back to the local board. The strong local board takes responsibility for the organization's long-term history, growth and development. That is what we press on the local board, to think through for themselves what in their environment will make the most sense, how can they be self-sustaining over the very long term.

Our pledge when we start to work with an organization or community or those partners is to be there for them as long as they are there for the neighborhood.

We want to be supportive of that organization as long as they are working to improve conditions in the neighborhood. When that stops, then we really have to look around for other organizations. But we have been with organizations many, many, many years, and quite a few of them are approaching a point where they are self-sustaining, if not for their whole budgets, at least for a portion of their budget.

hud

Mrs. Meek. And HUD has changed its policies. The new federalism in HUD is going to make your organization much more significant. I know in my neighborhood, Madam Chairlady, HUD has decided to break down all the public housing projects. In doing so, they are saying to the people in those public housing projects we are going to tear this down, you have got to go someplace else to find a home. And we are going to--they are going to take like 250 units out of the largest one in my district. Right now there is a lot of furor about this.

So the kinds of things that you are doing to stimulate home ownership is going to help HUD. And I am just wondering if you are involved in that continuum of working with local HUD as well. I know the board is trying to work with them, but it is very difficult when you face 300 people in public housing that know they have got to go, they do not know what is going to happen, they have been told they will be given a voucher. Well, I know about vouchers and you do too. I mean, give me a voucher and I cannot find anything. So that is what they are doing, and I wanted you to be aware of this new federalism and what is happening in HUD, because there is a spillover into what you are doing.

Mr. Knight. It definitely does. I think that this is where the income mix of the home ownership effort helps. We are working with HUD on section 8Y, which allows some folks to take the vouchers and use them for home ownership purposes. In distressed neighborhoods that can work. In the NeighborWorks Campaign for Home Ownership we helped a number of families earning less than \$10,000 become homeowners.

But some families are not going to be homeowners, they do not want to be homeowners, they cannot be homeowners. That is where we think the multifamily initiative comes in, to help organizations acquire and manage multifamily property without dependence upon a long-term Federal subsidy. We much prefer if

you are going to subsidize a multifamily property to do it up front so that it can be managed on a long-term basis on the incomes that the families bring to the table.

Mrs. Meek. One last thing is to compliment you on the way you have--your structure, showing what your goals are and the objectives and how to get there. I congratulate you.

Mr. Knight. Thank you.

Mrs. Meek. Thank you, Madam Chairlady.

Mrs. Northup. Thank you, Mrs. Meek.

In following the guidelines established by the chairman, we are going in order of how people came into the room, and, Mr. Cramer, I believe you are next.

capacity-building and equity grants

Mr. Cramer. Thank you. And thank you for your presentation today.

I also want to thank you for making your staff available to my office. As also as a new member of the committee, I think it is important that I be given those kind of opportunities, and you did that and did that very well.

And you may have had some opportunity earlier, before I got here, to go into some of the questions that I have for you today. But your capacity-building and equity capital grants, would you give the subcommittee some idea as to the average size of these two type of grants and the purposes of those grant programs?

Mr. Knight. The purpose of the equity capital grant is to build the revolving loan fund, which is a fund owned by that local board of directors. They own that fund and use it for any legitimate capital purpose that they see fit. It may be for the second mortgages we talked about. It may be used for the purchase of a building. And we encourage the Board to do it in a way that enables them to move towards self-sufficiency.

Last year I believe the average capital grant was somewhere around \$70,000. We can get you the exact number. The capacity-building grant deals with the other side of the equation. Some gaps that one faces in the neighborhood are capital gaps, that little piece of second mortgage money or the ability to buy that piece of land so you can get a contract to build a home. The other gap that is often in the neighborhood is somebody who can do the financial counseling, somebody who can do the rehab counseling, somebody who can do the organizing, as Mary Lee Widener mentioned. Somebody in a multifamily property who can work with the residents on an after-school program so that when the children come home from school they have something constructive to do, which is of course good for the children. It is also good for the property, because they are not doing stuff that would hurt the property.

Capacity-building grants allow them to meet those needs. We do it in a way that enables them to meet the need that they feel is most appropriate to them. So we do not have categories or give grants for specific ``programs.'' It appears as if--the median capital grant last year was \$70,000. The average was \$100,000. And on the expendable side it was \$60,000.

Mr. Cramer. All right.

Ms. Kelly. I would just say one thing on the capacity-building grants. I think the wonderful thing about the

capacity-building grants is that they are not entitlement grants. They are not distributed in equal amount each year to each organization. They are targeted toward what it is that this organization locally needs the most. And in some cases, for example, if an executive director is leaving. Nonprofit organizations are not richly staffed, and the absence of an executive director can make a big difference as the board of directors struggles at a volunteer level to keep the organization solid.

We have used our capacity building grant very effectively in providing some interim assistance when boards are going through a transition. That's been a very critical use for the NeighborWorks' organizations.

NEW NEIGHBORWORKS' ORGANIZATIONS

Mr. Cramer. I want to come back to the addition of new organizations and your history of doing that. Did I understand you to say was it last year 16 were added?

Ms. Kelly. Sixteen were added last year.

Mr. Cramer. And this year among your goals are to add 12.

Ms. Kelly. No, well, this fiscal year 1999 it is 16; in '98 it was 16; for the year 2000 it is 12.

Mr. Cramer. All right. How proactive are you about that? Are you reactive mainly, or are you able to be proactive about identifying maybe the geographic bounds with urban-rural balance programs?

Mr. Knight. We are very proactive in that regard, partly out of self-interest. We need to balance geographically across the country because we do not have the staff, the depth of staff to respond to the vast number of requests that come to us. As the banking world has become increasingly regional, banks have regional interests and needs, and so we try and get some geographic balance. And then we like to work with organizations or special situations. Sometimes we create an organization from scratch, where there is a real need and the potential for a terrific partnership but for some reason it just hasn't come together.

Mr. Cramer. You make reference to advertising. Is that by Federal Register or how is that?

Ms. Kelly. Well, we have a very substantial list of folks who are very interested. Each of our district directors, who are located within a geography---

Mr. Cramer. You have nine district directors?

Ms. Kelly. We have nine district directors, correct. They are geographically situated. They know their region of the country very well. They know who the players are. They send material to municipal governments, to community groups, to private-sector organizations, to solicit---

Mr. Cramer. Are there deadlines, for example, for responding?

Ms. Kelly. Yes, there are, but we accept applications in the interim on an ongoing basis--we have a formal period during the year when we evaluate applications, but we are talking to people all year long.

Mr. Cramer. How many might you evaluate to determine those

16 or those 12? Hundreds?

Mr. Knight. Well, we have several hundred requests every year, and we evaluate on site probably 70 or so.

Ms. Kelly. I would say yes--hundreds.

Mr. Knight. We run training sessions that are nuts and bolts sort of like a community college in a week long event. A lot of folks come to the training session, they are not at all connected to us, and that is where we really get the opportunity to sit down with people, listen to what they are up to, have a sense of whether this going to be a fit? Are they a nonprofit? Are they interested in a partnership between residents and the financial sector? Some organizations just want the financial sector to run the organization. Some places people just want the residents to run the organization. We always want a local partnership to run the organization. So we listen and have the opportunity to personally interact at our training events.

Mr. Cramer. Thank you.

Here is a list of folks who have attended from I believe your State in the last couple sets of training institutes, and here is a brochure for the March, Philadelphia training institute. We do these five times a year.

Ms. Kelly. And sometimes the training is what they need most. It's not to establish an organization, it is to get organizations that are already established and working well access to those kinds of training resources.

Mr. Knight. That is right. Yes. The training sometimes is all an organization wants or needs.

Mr. Cramer. Thank you.

Mr. Knight. We were just in Atlanta in February, in March we will be in Philadelphia and in June we will be in Chicago, and then we will be on the west coast again in the fall.

Mr. Cramer. New Orleans?

Mr. Knight. Oh, New Orleans in August, yes, New Orleans in August. [Laughter.]

Mr. Walsh. Mr. Knollenberg.

Mr. Knollenberg. Thank you, Mr. Chairman, and I thank you and your colleagues for coming this morning.

I have just a couple of quick questions I believe on what I have heard, and I think that you do a consistent and a good job in your efforts to leverage money.

Mr. Knight. Thank you.

LEVERAGE RATIO

Mr. Knollenberg. I think that I want to just focus on that area.

What is your leverage ratio? I know this doesn't take into consideration the Californias of the world or the Massachusetts or Michigan. I am going to talk a little bit about Michigan. What is your leverage ratio?

Mr. Knight. Sir, I do not have a single leverage ratio. I frankly find them one of the most misused numbers going. There is really a series of leverage ratios. We put last year \$7 million into the secondary market. That provided for all the staff so they could purchase loans at par with recourse, manage a \$196 million portfolio, and purchase \$42 million in loans.

But more importantly, to secure another hundred or so million dollars in future investments so they could continue to operate.

Mr. Knollenberg. The reason I bring that question up, I think I recall the former ranking member or chairman of this committee, Mr. Stokes, who used a figure of around 12 to 1. Now that is a local---

Mr. Knight. Ten to 15 to 1, a local situation, yes, because there is so much private capital that it can be leveraged.

PRIVATE SECTOR INVOLVEMENT

Mr. Knollenberg. Well, that is what I want to talk about. I have some numbers here, for example, from Michigan--these are your numbers--and it is interesting to me that in Michigan there is close to 12 million, over 9 of which is in Battle Creek. And what is interesting to me is in Detroit it is 355,000. I look at Detroit and I compare it to some other cities on here, and I know that the populations are not exactly in the same arena, but Boston is well over 2 million, Baltimore is 6 million, St. Paul, Minnesota is 12 million. And I am looking at Detroit, and there is a contrast with Battle Creek at over 9 million, Kalamazoo, smallish in many ways, is well over a million and a half. I know the answer, but I would like for you to tell us why do those numbers come up the way they do. And I suspect it has to do with private aid.

Mr. Knight. Absolutely. There are two--at least two driving factors. First, the numbers you are looking at are sales to the secondary market, so that is at local option. If you were to look at a large city like New York City, you find 700,000. Why? New York City can take care of its needs through available private resources.

Syracuse is at a million eight. So it is very much a local option whether to sell to the secondary market.

Battle Creek has the enormous benefit of having the Kellogg Foundation there. The Kellogg Foundation was extremely generous when we were starting in Battle Creek and wrote basically a check for I think it was 5 or 7 million dollars to fund the revolving loan fund right off the bat. And so they have been a very aggressive user of the secondary market.

Mr. Knollenberg. Is there anything that you are doing or you can do to let us say encourage greater involvement by the private sector in Detroit?

Mr. Knight. Well, just because it is a local option, this really does not accurately portray what the activity at the local level may be. The activity at the local level may be much greater than is portrayed in their sales to the secondary market, because they choose not to sell and rather hold those loans in their own portfolio.

In the case of Detroit, in the last two years they have been undergoing a leadership change, and their activity has not been as great as we would hope. We are in the process of rebuilding the leadership, and we hope they will be very active. Very typically the larger cities are not major users of the secondary market. They have more resources available to them.

Mr. Knollenberg. Thank you, Mr. Chairman.

Mr. Knight. The secondary market is used as a backstop. We do not ever require anyone to use it. It is there if you need it.

Mr. Knollenberg. Mr. Chairman, that is my final question.

Mr. Walsh. Thank you, Joe.

Are there any other questions of our guests today?

If not, thank you very much. You are excused.

Mr. Knight. Thank you.

Mr. Walsh. There will be questions submitted for the record, and we would like you to respond to those as quickly as you can.

Mr. Knight. We will.

[Recess.]

Offset Folios 1249 to 1485 Insert here

Thursday, February 25, 1999.

NATIONAL CREDIT UNION ADMINISTRATION

WITNESSES

NORMAN D'AMOURS, CHAIRMAN

CAROLYN JORDAN, EXECUTIVE DIRECTOR

DAVE MARQUIS, DIRECTOR OF EXAMINATION AND INSURANCE

HERBERT YOLLES, PRESIDENT, CENTRAL LIQUIDITY

Mr. Walsh. All right. If everyone will take your seats, we will begin the second leg of this journey, and we will continue the hearing by taking testimony on the fiscal year 2000 budget request for the National Credit Union Administration.

I want to welcome back to the House of Representatives Mr. Norm D'Amours, Chairman of the NCUA and a former Member of Congress from New Hampshire, the great State of New Hampshire. Live free or die, right? Is that not what they say up there?

Mr. Sununu. Yes.

Mr. Walsh. This year NCUA has requested a rather dramatic change to its budget submission for the Central Liquidity Facility. Though not included formally in the President's budget request, NCUA is requesting the elimination of the \$600 million cap on CLF's borrowing authority. The formulaic statutory limitation remains. Additionally, the administration expenses increase from 176,000 to 257,000, a fairly substantial increase.

The subcommittee is interested in understanding NCUA's rationale for advocating the elimination of the \$600 million limitation, and nevertheless I want to observe that the proposal is an authorization matter that falls within the jurisdiction of the Banking Committee. After learning more about the proposal from NCUA, we hope to have the benefit of Mr. Leach and Mr. LaFalce's views on this matter.

Of the complex issues that surround this matter, I observe that one of the most difficult is the attempt to predict the behavior of depositors and whether they will withdraw large sums of cash to get through the Y2K transition period. Put simply, it is almost impossible to quantify the confidence level of credit union depositors. Nevertheless, it is

undeniable that the Government must formulate contingency plans and formulate them quickly if this problem is to be resolved in a way in which consumer confidence in the credit union system is not undermined.

My colleagues and I look forward to having substantive discussions with you about this issue and others. After Mr. Mollohan offers any opening comments that he may have, we will ask you to introduce your associates and summarize your testimony as you like.

And I will call upon my colleague, Mr. Mollohan.

Mr. Mollohan. I have no opening comments.

Mr. Walsh. No questions, no comments, and we will begin. Sir, please proceed.

Mr. D'Amours. Thank you very much, Chairman Walsh and members of the committee, and ranking member Mollohan and Congressman Sununu, whom I have to point out, because I used to hold that seat in New Hampshire when it was still possible to elect Democrats in the State of New Hampshire.

I am very pleased to be here with you today representing the National Credit Union Administration request relative to our Central Liquidity Facility and to update you on the progress of our revolving loan fund which is administered by our Office of Community Development Credit Unions headed by Joyce Jackson.

Appearing with me today, Mr. Chairman, are Carolyn Jordan, seated to my right--she is the executive director of the agency; Dave Marquis, our director of examination and insurance, who is seated behind us; Herbert Yolles, who is the president of the Central Liquidity Facility; and, as I said, Joyce Jackson, seated immediately to my left.

If possible, Mr. Chairman, during the question-and-answer session should it become relevant I would hope that perhaps Mr. Yolles could approach the table and sit with us, because he is the president of that facility.

Mr. Walsh. Absolutely.

Mr. D'Amours. I understand we are short of seating right now.

Mr. Walsh. Well, yes, when we get to that point, bring him up.

Mr. D'Amours. Thank you, sir.

Mr. Chairman, as you and members of this subcommittee know, the CLF was established in 1979, and it serves as a liquidity source for credit unions. It is funded by its credit union members, and it may borrow from any source. It currently has a borrowing arrangement with the Federal Financing Bank.

As you also know, Mr. Chairman, NCUA is not requesting an appropriation for the CLF, merely removal of the appropriations cap on the CLF's borrowing authority. Removal of this cap has no budgetary or scoring impact. The limit on CLF borrowing for new loans to credit unions has remained at \$600 million for the last 18 years. The budget submitted by the Office of Management and Budget requests a \$600 million limit on borrowing and a \$257,000 limit on administrative expenditures for fiscal year 2000.

Removing the appropriations cap on CLF borrowing does not mean that there is no cap on CLF borrowing, but rather that the cap contained in the Federal Credit Union Act would apply.

Under the provisions of the Federal Credit Union Act, which establishes the CLF, the CLF borrowing is capped at 12 times its subscribed stock and surplus, currently about \$18\1/2\ million. While the \$600 million appropriation limit has in the past been adequate to address isolated liquidity needs in credit unions, this amount represents less than 3\1/4\ percent of the 18\1/2\ million which the CLF would be permitted to borrow under its enabling legislation.

When that 600 million limit was first inserted into the appropriations measure in 1980, the 600 million amount exceeded the 12 times subscribed stock and surplus of the CLF. Clearly, Congress did not intend to restrict the borrowing ability of the CLF to a level below the cap contained in the Federal Credit Union Act. And despite the dramatic growth in credit unions and increase in the CLF subscribed stock since 1980, the appropriations limit has never been adjusted. The approach of the year 2000 may trigger a systemwide increased demand for liquidity and the 600 million limit could prove inadequate to address credit unions' short-term liquidity needs at the end of this year.

Before I go any further, I want to emphasize that credit unions are quite prepared for the year 2000 transition. As of December 31, 1998, 97 percent of all federally insured credit unions were Y2K compliant or on schedule to becoming so. Although NCUA sees no need for credit union members to withdraw larger than usual amounts of cash before the year 2000, it is possible that excessive media focus on the date change would cause an increased demand for cash at the end of the year.

I repeat, there is absolutely no logical reason to panic, but we all know that sometimes human reactions are not based on logic, and NCUA has a responsibility to ensure that credit unions have available liquidity to deal with any threat of increased liquidity demands that could possibly arise at the end of 1999. The 600 million limit on CLF borrowing could impede our efforts in that regard.

Turning to another subject, Mr. Chairman, I would like to thank the subcommittee very much for providing an additional \$2 million for the Community Development Revolving Loan Fund in fiscal year 1999. As you know, the fund makes loans at below market rates to low-income credit unions. The demand for such loans still outstrips supply. Low-income credit unions are receiving more assistance than ever before, thanks in great part to this subcommittee's efforts at funding our revolving loan fund. And the earnings from that loan fund are used to provide technical assistance to low-income credit unions in order to shore up their operations and to help them avoid problems that could result in a loss of services to people in low-income areas.

Let me just conclude, Mr. Chairman, by saying simply that NCVA and the credit union system will be able to address any possible Y2K liquidity needs if the cap on CLF borrowing is removed.

And I thank you for your attention to my statement.

Mr. Walsh. Thank you very much. Good comments.

Are you suggesting that the news media might possibly blow something out of proportion?

Mr. D'Amours. Heaven forbid that I should make such a

suggestion, Mr. Chairman.

Mr. Walsh. You described or alluded to the growth in credit unions since 1980. Do you have any idea what that actual growth is in number of credit unions and the number of members of credit unions since 1980?

Mr. D'Amours. I do not have those numbers at my fingertips, but I am hoping somebody on our team does.

Mr. Walsh. Well, we will wait for those.

Mr. D'Amours. We will be happy to supply them to the committee.

Role of CLF

Mr. Walsh. I am sure it will be part of the discussion when we get to this CLF cap issue.

Are there comparisons that can be made between the NCUA and its relationship to credit unions and the Federal Reserve and its relationship to banks?

Mr. D'Amours. Well, to the extent that the discount window offers a relatively inexpensive source of liquidity to banks, yes. The CLF offers through its arrangements with the Federal Financing Bank offers a source of liquidity to credit unions, but not a subsidized source of liquidity as some people think, because of the fact those borrowings are marked up about 12\1/2\ basis points, so that the Treasury actually does make a spread on those advances. I think in the case of the Federal Reserve Board----

Mr. Walsh. To NCUA.

Mr. D'Amours. To the----

Mr. Walsh. To the members.

Mr. D'Amours. To the CLF.

Mr. Walsh. Okay. Right.

Mr. D'Amours. The CLF borrows from the Federal Financing Bank. The Federal Financing Bank marks up its costs about 12 basis points----

Mr. Walsh. Right.

Mr. D'Amours. Then passes those moneys on to the CLF, which through the corporate network distributes them to credit unions.

CLF Administrative Expenses

Mr. Walsh. On your administrative expenses, that is a fairly substantial increase. Can you explain why?

Mr. D'Amours. Because we added a staff person this year, Mr. Chairman. As a matter of fact, we traditionally have been coming in considerably below our appropriation level, and we did again this year. But we had to add a staff person this year, and that accounts for the difference. But overall, when you go back say 1993 to today, we're still several hundred thousand dollars below where we were. I think we've been quiet frugal in that regard.

OIG Budget

Mr. Walsh. Unlike other agencies, NCUA's Office of Inspector General does not receive a separate line item. How is

the OIG funded?

Mr. D'Amours. Well, we are not required, as some other agencies are, to fund our inspector general through a separate line item. However, in effect the IG at the NCUA is separately funded because that budget does not go through staff, it goes directly to the NCUA board, and we have never--we have always implemented the budget that the Inspector General's office has requested. So there is no filtering system where the IG has to go through our staff.

Mr. Walsh. You think this process the way it is established now assures the independence of that OIG?

Mr. D'Amours. I believe so, sir; yes. And I believe our Inspector General is like-minded, but I would not deign to speak for him at this point.

Mr. Walsh. We may submit a question to the Inspector General on that.

growth in credit union assets, members

Mr. D'Amours. I have the answer to your question if you want it now, Mr. Chairman.

Mr. Walsh. Okay.

Mr. D'Amours. My staff informs me that in 1980 the assets of credit unions were \$57.8 billion. In 1998 they are over \$380 billion, a 600-percent increase.

Mr. Walsh. The first figure was about----

Mr. D'Amours. \$57.8 billion in 1980; in 1998, \$380 billion. As for members, in 1980 there were 20 million credit union members; in 1998 there are 76 million credit union members.

Mr. Walsh. Substantial, yes.

Mr. D'Amours. Quite a dramatic increase.

Credit Union Y2K Readiness

Mr. Walsh. Thank you. You said that on risk assessment your industry, the industry that you regulate, or that you oversee, is 97 percent Y2K compliant. You are confident in that figure?

Mr. D'Amours. Yes, sir, we are fairly confident in that figure. We are--if you would like me to expand on that, we are 97-percent compliant. Only about one-half of 1 percent of federally insured credit unions are not performing satisfactorily, and fully 34 percent are already fully compliant, ready to go.

Mr. Walsh. In your quarterly report to Congress the number of credit unions receiving an unsatisfactory assessment for Y2K actually went up, a small number, but from 29 to 35. Could you explain why?

Mr. D'Amours. I could not at this time. Perhaps my director of examination and insurance could answer that question, if you would permit.

Mr. Walsh. Sure.

Mr. D'Amours. This is David Marquis, the director of our examination and insurance office.

Mr. Marquis. Actually, the current number of credit unions rated unsatisfactory is 54 as of today. And that is because our examiners continuously go on site. In fact, we are on track now to have our examiners touch every credit union on the testing

issue by the end of March. Credit unions have to be through their testing by June 30. If we find that their testing is not progressing satisfactorily, we will issue an administrative record or in terms of the LUA or a published LUA on those credit unions.

The next phase of course will be implementation, and that will be a whole new series of analysis.

Mr. Walsh. Does that trend belie your estimate of 97-percent compliant?

Mr. Marquis. No, because, I mean, the number--that number is such a small number in terms of the credit unions that are actually rated satisfactory by our examiners, which is 10,642, whereas the number of what we call ``needs improvement'' has actually gone from 895 in September to 512 in December to 238 today. So that number goes down dramatically, and a couple of those have bumped into the unsatisfactory category. Most of them have gone back into the satisfactory.

Mr. D'Amours. I would like to add, Mr. Chairman, for the record, that 10,642 is out of a universe of 11,000.

Mr. Walsh. Yes, it is a very small number.

Excuse me, on the Central Liquidity Facility, I have some specific questions as to its role that I will submit, but based on what--in the discussions that I have had with credit unions, with staff and with other members----

Something will have to happen this year. We are waiting, excuse me, Treasury has already weighed in on this. Federal Reserve has not yet but will soon.

Obviously what they have to say is important. It is not the determining factor but if the Federal Reserve comes back and they say this is not a good idea, we have a better idea, and they can implement that idea this year, then we are going to have to take a serious look at it, but I am of the opinion and I can't speak for everyone on the subcommittee, that we do have to take some action on this so if that is of any comfort----

Mr. D'Amours. Well, if I might say, Mr. Chairman, we have been working with the Federal Reserve quite closely.

Our Executive Director, Carolyn Jordan, and Mr. Yolles have spent many hours with the Federal Reserve and of course we have spoken to the Treasury also. I am not aware of any antipathy on the part of the Federal Reserve towards our initiatives and I sense--I don't know what information you are going to ultimately receive--but I would not be at all surprised if in fact removal of the ceiling was not determined by most interested parties to be the most expeditious, the neatest and the most efficient and safest way to approach this problem.

I don't know that Treasury will come in with that conclusion, but on the other hand, Treasury has generally been against any accesses to liquidity that are beyond the traditional channels.

Mr. Walsh. I just have one last question I will ask and then I'll go to Mr. Mollohan, but have you analyzed what you estimate, and this is a guesstimate I guess is maybe a better word, what you will need--what the need will be for cash flows in the fourth quarter of '99 for credit unions?

Mr. D'Amours. It is very difficult to do, but we took for instance an estimation that every credit union member who uses the credit union as their primary financial institution would

make a withdrawal of \$500 to get them through the last few months of 1999 and that comes to approximately a \$7.5 billion liquidity need. We may, given our current----

Mr. Walsh. Is that worst case?

Mr. D'Amours. Oh, no. No, that is probably a not unreasonable assumption, but any assumptions are at best guesses, but if you are going to start guessing that might be not an unreasonable guess to make.

We might be able to cope with that level of liquidity need in the current system but if anything worse than that were to occur, and as I said, depending on how this is hyped up at the end of the year and what sense of panic may unnecessarily and unreasonably arise, going beyond that would be a problem, we think we owe to our members and to the American financial system to be ready for that.

Mr. Walsh. Thank you. Mr. Mollohan.

Mr. Mollohan. Norman, when the Treasury lends money, when they lend money to the Central Liquidity Facility, what protection does the Treasury have against default?

Mr. D'Amours. These are all collateralized loans and the problem isn't the--I don't think the problem is a credit problem. I think the problem is a liquidity problem, Congressman Mollohan.

Mr. Mollohan. Well, the Treasury Department, I am advised has said that the Central Liquidity Facility has a gravely deficient capital structure. What do they mean by that? Are they correct? What do they mean by that?

Mr. D'Amours. We believe that they are incorrect and that their premises are not valid, but if you want more than that I would ask Mr. Yolles to comment.

Mr. Yolles. Congressman Mollohan, credit unions are required to purchase stock in the facility as a condition of membership and they all have done so in accordance with the requirement and statute.

The corporate credit unions, which own the bulk of the stock in the CLF, have used their wholesale credit union, which is known as US Central, as a vehicle for purchasing the stock and this is basically a wholly-owned subsidiary. The stock has been purchased and it amounts on deposit today to about \$700 million.

The CLF's capital was never intended as a source of funds. It would be loaned to credit unions if we had a liquidity emergency. Indeed, if you look at the worst case scenarios for Y2K, perhaps the extreme scenario might be a \$20 billion outflow. The CLF's capital of \$700 million does pale in comparison but it was never intended to be the source. That is why the CLF was given its borrowing authority by Congress of 12 times subscribed stock and that is its true benefit, so I would characterize this as a philosophical disagreement with the Treasury Department on whether the CLF's capital would be the only source available for lending.

Mr. Mollohan. So why are they described as gravely deficient?

Mr. Yolles. I certainly can't speak on behalf of the Treasury Department. I have had numerous discussions with them and this accrues to again a philosophical difference. I understand that the Treasury Department is opposed to any

entities that are known as government-sponsored enterprises--GSEs--and they feel that the CLF, while not strictly GSE, functions like one and I think that is the nature of our difference of opinion on this issue.

Ms. Jordan. You might want to know we have never seen anything in writing from the Treasury detailing what they are comparing the CLF to. Maybe they are comparing it to some market-based company or corporation that does lending. We have no idea what economic basis. We have seen no studies, no economic analysis that supports their view.

The CLF meets the capital structure that Congress set up for it, so it is in compliance with the law. We have no idea what they are referring to.

Mr. Mollohan. I guess that's what we are asking--that is an expression of concern by Mr. Rubin in a letter to Chairman Leach in January of this year that you are familiar with?

Ms. Jordan. That's a statement from their credit union study that they did in 1997, but we have never seen any study, any economic analysis--I mean market-based analysis of those statements. They are simply their opinion as far as we are concerned.

Member Business Loans

Mr. Mollohan. Thank you. Let me ask you a question. I visit with my credit union--one of my credit unions, one of my fairly large credit unions which perhaps is not that large if compared nationally but it is pretty large in my state, and they do do a lot of business loans. They are very concerned about the restrictions on business loans and the agreement last year that put those restrictions on it and I just wondered if you would comment on that generally and whether you see it as a problem with credit unions generally and what you see down the future if that limitation continues?

Mr. D'Amours. I'd be glad to, Congressman Mollohan.

We were--as the Chairman of the NCUA I was in the process of trying to expand credit union member business lending and we were just--that's two boards ago I think we began this--and we were just ready to put forth a new member business lending rule out when Judge Ginzberg's decision came out and an injunction was issued against us, so we were prevented from doing that. Then, as you know, Congress included a new statutory limit on member business lending as part of the Credit Union Membership Access Act.

I've felt for years, Congressman, that credit unions could add a lot to smaller business, micro-enterprise efforts in inner cities, and isolated rural areas where many smaller loans are needed but not being funded, so we are in the process today of drafting regulations that we will be issuing soon affecting member business lending but constrained by the provisions of the 1151 that Congress just passed.

I would like to see credit unions being able to get more involved in member business lending, not to compete with other financial institutions that get involved with large tract enterprises and the like, but to do small business lending. There is a need for small business lending that is not being met I think today that credit unions could help to meet. We are

going to be interpreting the statute as expansively as we legally can to make that possible but the statute limits to 12.5 percent of assets the member business lending that credit unions can do and categorizes any loan over \$50,000 as a loan that has to be added into that category, so we are restricted. I don't know who you spoke to--what the credit union is---

Mr. Molloyhan. Steel Works Credit Union.

Mr. D'Amours. Well, without having a specific knowledge of that credit union, I couldn't comment, but I could say that in general I think that credit unions should be given more latitude to make small member business loans than they are currently given.

Mr. Molloyhan. Well, there is really a certain foreboding in their description of what this is going to mean to them. Is there a solution short of a statutory--revisiting the statute? Are you alluding to an administrative remedy?

Mr. D'Amours. We are going to do--I don't think anybody is very anxious to getting back into the statutory arena, but I think things could be done statutorily that would be very helpful. At our level, we are going to interpret the current statute as expansively as we legally can, but we are constricted of course by the statute. That would be within the purview of Congress to decide whether or not there are changes to be considered.

Mr. Molloyhan. You are right now in the midst of that consideration?

Mr. D'Amours. Oh, yes. Yes.

Mr. Molloyhan. When will you be----

Mr. D'Amours. Well, the comment period closed, as I recall, at the end of January, so I would think that by this spring we could be out with something.

Mr. Molloyhan. Thank you, Mr. D'Amours.

Mr. Walsh. Thank you. Mr. Knollenberg.

CLF Borrowing Limit

Mr. Knollenberg. Well, I'll try to be very brief. This whole thing about the Y2K problem I know is upsetting and concerns you as it is a concern to people around the world in the various countries. I just had a conversation with a person who is a consultant not for agencies such as yourself, but for private business, and there are some concerns out there.

The whole question though that it comes down to is the impact that might have on the CLF and the reason, and maybe you know the history as to what is the reason for the ratio to exist? What is it, 12 to 1? Why not 15 to 1? Why not 20 to 1? Or some other number--10 to 1, I guess.

Mr. D'Amours. That was done in 1980, Congressman, and although I was in Congress at that time I was not much focused on this issue. I couldn't say, except that it--at a 12 to 1 ratio everybody seemed satisfied that that would be more than sufficient to meet any projected liquidity needs, and in fact that was a judgment that I think was correct.

I think at that ratio we still would be amply able to meet any projected expected liquidity needs.

Mr. Knollenberg. Would we be having this conversation if there wasn't a Y2K problem?

Mr. D'Amours. As a matter of fact, Congressman, we might be, because the agency has felt for a number of years that the level set by the cap, the \$600 million cap, was arbitrarily low and has never been adjusted for growth, for inflation, and needed to be changed, so we would have supported a lifting of the cap under any circumstances.

Mr. Knollenberg. If you don't have access to this extra liability, through the CLF, why even have a CLF? Is that a fair question?

Mr. D'Amours. Would you repeat the question?

Mr. Knollenberg. If you don't have this increased backup liability through the CLF, do we even need a CLF?

In other words, that cap is there now, but if you are concerned that you are going to perhaps exceed that cap, if the CLF is not going to be a vehicle that you could use to get this extra security or liability then do we need a CLF?

Mr. D'Amours. The CLF is fine. There is no other liquidity source for credit unions. The reason the CLF was passed in 1980 is precisely because Congress recognized that credit unions didn't have access to any other liquidity source to meet extraordinary demand.

Mr. Knollenberg. That is the extent of my questions, Mr. Chairman. I might have one other question, which I will submit for the record rather than to the witness, but I thank you.

Mr. D'Amours. Thank you, Congressman.

Mr. Knollenberg. Thank you, Mr. Chairman.

Mr. Walsh. Mrs. Meek.

CLF Reserve Structure

Mrs. Meek. Mr. Chairman, I have been listening and reading the reports here and I am just trying to understand what these significant weaknesses are that Treasury has pointed up--the structural weaknesses that they keep referring to.

I don't know whether you have done any studies or anyone else that showed this to be a reality with credit unions. Do any such studies exist on your part showing these structural weaknesses?

Mr. Walsh. No.

Mrs. Meek. Or has Treasury come up with any substantive information regarding these weaknesses?

Mr. D'Amours. There are certainly no structural weaknesses within the credit union system. We have been audited by the General Accounting Office on a couple of occasions and given a clean bill of health, as has the CLF and as our Executive Director, Ms. Jordan, has just pointed out, we share your bemusement at the rationale that the Treasury has advanced.

Mrs. Meek. So this is obviously an opinionated version by Treasury regarding---

Mr. D'Amours. Well, I have a great deal of respect for the people at Treasury and they do very good work. This is an issue however where we are having difficulty in coming to an understanding as to what the needs and the realities are.

Mrs. Meek. Thank you.

Mr. Walsh. Thank you, Congresswoman.

Mr. Walsh. Thank you, Mrs. Meek. Mr. Sununu.

Mr. Sununu. Thank you, Mr. Chairman. It is a pleasure to

welcome you, Mr. D'Amours. Very distinguished predecessor, as we were talking earlier. The former Congressman pointed out that he held my seat for five terms, which may certainly be a record for a Democrat, but it is quite distinguished for a member of either party. [Laughter.]

Recent CLF Use

Mr. Sununu. A few brief questions. How much use during the past two years has the CLF received or maybe more narrowly what was the cashflow for the fourth quarter of last year, 1998?

Mr. D'Amours. We haven't accessed--we haven't used the CLF for four years, Congressman.

Mr. Sununu. And I guess that would be considered good news that your members haven't required the liquidity.

Mr. D'Amours. Yes, that's right.

Federal Reserve Discount Windows

Mr. Sununu. Why not--the original formation, do you recall what the argument was for not just allowing members direct access to the Fed window?

Mr. D'Amours. Well, Congressman Sununu, 42 percent of credit unions would not qualify for access to the discount window.

Mr. Sununu. On what basis?

Mr. D'Amours. They don't have transaction accounts, Congressman. Of those who do qualify, only 300 have applied for such access, and out of that, to date, only 20 have been granted access to the discount window, and, again, that is out of a universe of 11,000 institutions.

Mr. Sununu. So access to the discount window is allowed, but it is on a credit union by credit union basis, and it is up to them to apply?

Mr. D'Amours. That's correct, and 42 percent would not qualify under existing parameters.

CLF Reserve Structure

Mr. Sununu. Mr. Mollohan talked about the Treasury's opinion that the Reserve structure was weak. Has the Fed issued a specific position on the proposal?

Mr. D'Amours. No, we had met with the Fed and we have received no negative reactions from them. And as Mr. Yolles pointed out, if one were to take the CLF's equity and capital as the source of liquidity, of course, it wouldn't be sufficient, but on the other hand, then you wouldn't need borrowing authority and Congress gave it borrowing authority. I don't think it was intended to work as that argument seems to expect that it was.

Mr. Sununu. Mr. Chairman, will whatever information is provided by the Fed, will that be part of the record?

Mr. Walsh. Well, it will come after this hearing, obviously. Valerie, when do we expect a response from the Fed?

Ms. Baldwin. Hopefully, before the end of March.

Mr. Walsh. And that would be, obviously, the public record. Did you want to add something?

Mr. D'Amours. Yes, I would, Congressman Sununu. A member of the Federal Reserve Board, Philip Jackson, when this system was created, testified in favor of it.

CLF Structure

Mr. Sununu. Thank you. Why \$18 billion, how was that number arrived at? Does that suggest that the stock and surplus is \$1.5 billion, and you have multiplied by 12?

Mr. D'Amours. Yes.

Mr. Sununu. And I want to be clear myself, so it is \$1.5 billion and are those--is it stock that members have purchased in the corporation, is that how the transaction takes place?

Mr. D'Amours. Stock and surplus. But I would like--again, could Mr. Yolles approach the table to help us with that?

Mr. Sununu. Please.

Mr. Yolles. Congressman Sununu, the statutory requirement is that credit unions subscribe to stock in the CLF equal to one-half of a percent of their paid-in and unimpaired capital and surplus. One-half of that amount, or one-quarter percent, must actually be purchased; the other quarter of a percent is on call. The statutory borrowing formula is 12 times subscribed stock plus surplus, so you are correct, it is 12 times about \$1.5 billion, plus the CLF surplus, which means retained earnings. And that gets us to the figure which is----

Mr. Sununu. Is half, roughly half of that \$1.5 billion in stock purchases and the other half considered to be on call?

Mr. Yolles. On call, that's correct. The stock subscription is adjusted annually in the spring. The figure is currently \$18.5 billion, it will rise when we do our stock adjustment this year, probably in April.

History of CLF Borrowing Limit

Mr. Sununu. Why has OMB seemed to disagree with the request?

Mr. D'Amours. Well, the OMB has traditionally, in the five years that I have been at the agency, been routinely supporting the cap. Mr. Yolles has been with the agency many, many years more than I have. He might be able to go further back than I.

Mr. Yolles. Thank you. The cap has an interesting history. I have done some research, as you might expect, and it actually was part of an across the board government program in 1979 that was initiated by OMB, called the Federal Credit Control Program. The intent was just to get a number in the budget corresponding to the CLF's borrowing authority, and that was an OMB program. It has been continued every year. I think the program may no longer be in effect, and, as my Chairman characterized it the other day, I look on this as a cobweb of something in the distant past that simply hasn't been cleaned out.

We submit our budget request each year to OMB and, of course, they forward it to the Committee and they have added the \$600 million ceiling faithfully ever year for the last 18 years.

Mr. Sununu. I appreciate that history, it is helpful, but that doesn't make it any clearer why OMB, given that this

doesn't have any budgetary, a direct budgetary impact, it is not considered an outlay, why would OMB oppose the change?

Mr. Yolles. Well, I think I am on dangerous territory here, but OMB is part of the Administration, as is Treasury, and I believe that is the source of the support here.

Mr. Sununu. So they are reflecting the Treasury opinion that was presented earlier by Mr. Mollohan?

Mr. Yolles. I can't speak for OMB, but I believe that is the situation.

Mr. Walsh. Would you yield for just a second?

Mr. Sununu. Certainly.

Mr. Walsh. Just a little clarification on this. Treasury is opposed. Is it primarily because of the capital structure that the CLF utilizes, is that--would you respond to that?

Mr. Yolles. No, Chairman Walsh, I don't believe that is the source of the disagreement. In Treasury's 1997 report on credit unions, they commented that the CLF was not needed. Now, my understanding is that their opposition to removing the cap is part of their opposition to having the CLF, period. They have suggested that the Federal Reserve discount window could aptly serve credit unions and, as you know, we believe to the contrary.

Ms. Jordan. But they also suggest that credit unions should go to the private market. I think there is just--there has always been a traditional bias at Treasury against the creation of any other type of borrowing facilities, and that includes the Federal Home Loan Bank system, Fannie Mae, Freddie Mac, all of these institutions. Treasury has always opposed other entrants in the market that borrow along with them when they are in the T-bill market.

That bias started when the T-bill market was relatively small. It is enormous now and these other borrowers would have no, or little, if any, impact on that marketplace.

Mrs. Meek. Mr. Sununu?

Mr. Walsh. It is Mr. Sununu's time.

Mrs. Meek. Will you yield?

Mr. Sununu. Do I have any left?

Mr. Walsh. No, it has not expired.

Mrs. Meek. Will you yield?

Mr. Sununu. Certainly.

Access to Liquidity by Small Credit Unions

Mrs. Meek. This entire scenario appears to me to put a big negative impact on these small credit unions, the small ones that exist in the state where I am from, and you have mentioned a lot of it. Where will they go, other than to the discount window? You said other groups, other financial situations, but that will not be easy, to do what you have described.

Ms. Jordan. No, I am not suggesting that they--they wouldn't be able to go anywhere, those small institutions. There would be no source for them.

Mrs. Meek. That's right. Those are the ones I am concerned about. The church ones. There are just oodles of them around that won't exist if this happens.

Mr. D'Amours. One of the assumptions the Treasury is making is that the large credit unions would go to the discount window

and that would free the capital within the existing corporate system for the smaller credit unions. That is an enormous assumption to make. The larger credit unions will likely go to the easiest and quickest source, which is the corporate system, and that would not leave anything for the smaller credit unions to access. The smaller credit unions do not even qualify under existing regulations for access to the Fed discount window. So I think you are quite right, that would be an enormous negative impact on smaller credit unions.

Community Development Revolving Loan Fund

Mr. Sununu. If I may reclaim my time and complete my questioning with just a few queries about the Community Development Loan Program. When was that established?

Ms. Jackson. Originally, in 1987. NCUA has had control of it since 1991.

Mr. Sununu. Why did NCUA take control of the portfolio?

Mr. D'Amours. It was a Congressional action. Congress specifically designated that we do it.

Mr. Sununu. Was there an issue or problem that prompted the change?

Mr. D'Amours. Not to my knowledge, I think it was just a matter of we being in the proper position to administer it.

Mr. Sununu. I would like to ask, I detect some disagreement. Maybe there is no disagreement.

Mr. D'Amours. Well, I can't see behind me, but I think by the time I turn around, the disagreement will have been resolved.

Mr. Loftus. My name is Bob Loftus; I am Director of Public and Congressional Affairs. At the time that Congress gave NCUA control, the program had been housed at the Department of Health and Human Services for about nine years. During that period HHS made no loans. Congress decided they wanted loans made.

Mr. Sununu. And what is the size of the current outstanding loan portfolio?

Ms. Jackson. We are at a little over \$7 million.

Mr. Sununu. \$7 million. And that is last year the appropriation was \$2 million, so you are asking for an additional \$2 million to take the portfolio size up toward \$9 million, is that correct?

Ms. Jackson. Well--go ahead.

Mr. D'Amours. This agency has never specifically asked for any amount of appropriation. The Committee has, on its own, recognized the need and given us that. OMB, of course, takes a different view of this. But all we can do is point out that there is an unmet need, and this Committee has always been kind enough to do the analysis and to decide how to help us meet that need.

Mr. Sununu. Is there a local match required in the loan that are made?

Ms. Jackson. Credit unions are required to match the deposits and loans, yes.

Mr. Sununu. Is it 50-50 then?

Ms. Jackson. If they do it by member shares, they get a 2 to 1. If they do it by other deposits, it is a 1 to 1 match.

Mr. Sununu. And what are the typical terms of the loans that are made?

Ms. Jackson. Five years.

Mr. Sununu. Thank you very much. Thank you, Mr. Chairman.

Mr. Walsh. Thank you, Congressman Sununu.

Mr. Cramer.

Mr. Cramer. Mr. Chairman, most of my questions have been answered, particularly about the Federal Reserve's discount windows and your reaction to that. I do think that your request seems to be wise and prudent. In anticipation of this interesting year with the Y2K problem, are any of my colleagues aware that the American Red Cross is already advising people to withdraw \$500 from their checking accounts as preparation for potential problems associated with Y2K?

Mr. D'Amours. I personally was not aware of that until you just said it.

Mr. Walsh. The Red Cross?

Mr. Cramer. That is our understanding. So your speculation, based on the \$500 figure is interesting.

Mr. D'Amours. That is purely coincidental, Congressman, I want to make it very clear.

Mr. Cramer. I thought it might be. I have nothing further, Mr. Chairman.

Mr. Walsh. Now that you have stirred the pot, Mr. Cramer. Thank you. Mrs. Northup.

Need for Increase in CLF Borrowing Limit

Mrs. Northup. I will just follow up with one question. Your concern seemed to be the Y2K problem, which I believe is understandable. Whether or not they are justified worries, people are worried, and it is increasing. Would maybe we accomplish the purpose to offset the Y2K event by giving you a temporary increase in the \$600 million to make sure that we get through that challenge, but that would not dramatically remain increased for the long term?

Mr. D'Amours. Well, certainly, any lifting of the ceiling would be better than no lifting of the ceiling, but every year brings its own realities and possibilities, so while we would, of course, prefer a permanent increase, anything would be better than no removal.

Mrs. Northup. But to just get us through the Y2K problem, certainly, a temporary increase would offset that since that seems to be the main point in issue today.

Mr. D'Amours. That may very well be the case.

Mrs. Northup. Thank you, Mr. Chairman.

Redeposit Structure

Mr. Walsh. I have one last question. We are talking about 76 million depositors. That's a huge number, and all of these folks have, obviously, something invested in the credit union system. Could you describe the so-called redeposit program and explain its relation to the Congressionally mandated capital structure? What we are getting at here is what stands behind the depositors in terms of systemic insurance?

Mr. D'Amours. You are talking about in the CLF structure?

Mr. Walsh. Yes.

Mr. D'Amours. Mr. Yolles, can you handle that, please?

Mr. Yolles. Chairman Walsh, the so-called redeposit structure is an agreement between the central liquidity facility and its agent, U.S. Central Credit Union, which is the wholesale credit union at the top of the system. And, very simply, the CLF deposits its surplus liquidity, its capital in two deposit accounts at U.S. Central. In one account we maintain overnight funds for immediate borrowing needs. In another account, funds are also available and it bears the one-year Treasury yield. This is part of the agreement by which U.S. Central has funded the corporate credit unions' capital stock purchases. Those funds are available, that is the \$700 million I spoke of, should the CLF need to access its capital. But I would like to emphasize that is not the strength of the CLF. The true strength comes from the borrowing authority, which, of course, we are concerned about.

Mr. Walsh. Are there any other questions?

[No response.]

Mr. Walsh. If not, thank you very much for your testimony today, and we will have some additional questions we will submit for the record.

Mr. D'Amours. Thank you, Congressman. We appreciate the opportunity.

Mr. Walsh. You're welcome. I think the rest of us will probably go vote, and then we will bring in the Community Development financial institutions.

[Recess.]

Offset Folios 1521 to 1545

Insert here

Thursday, February 25, 1999.

COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS PROGRAM

WITNESSES

ELLEN LAZAR, COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS PROGRAM
MAURICE JONES, DEPUTY DIRECTOR FOR POLICY AND PROGRAMS
PAUL GENTILE, DEPUTY DIRECTOR FOR MANAGEMENT AND CHIEF FINANCIAL
OFFICER

Introductory Remarks by Chairman Walsh

Mr. Walsh.

The final hearing this morning is on the Community Development Financial Institutions Program. Ellen Lazar.

Mr. Walsh. Lazar is the executive director, and she is here with her staff. Last year was Ms. Lazar's first as executive director of the CDFI. She inherited an agency in need of major management improvements. And I am pleased to report that many positive changes have occurred over her short tenure.

For example, substantial time has been invested in refining CDFI's mission priorities in management, which I am sure she will explain to us.

Additionally, goals and performance measures have been made

integral components of CDFI's strategic plan and budget request. These changes in process should provide Congress with tools we need to evaluate CDFI's achievements and to more effectively appropriate the funds provided to us by the taxpayer.

For fiscal year 2000, CDFI requests an appropriation of 125 million, 110 million for its existing programs, and 15 for a new program to develop microentrepreneurs.

This request is \$30 million above the appropriation provided in fiscal year '99. During today's hearing we will discuss this request and you will learn additional details on the PRIME program, Program for Investment in Micro Entrepreneurs.

Ms. Lazar, thank you for coming today and for your hard work and for your staff's efforts this past year.

And why don't we just proceed, and then if Mr. Mollohan has any comments, he can make them when he comes.

Opening Statement of Ms. Ellen Lazar

Ms. Lazar. All right. Thank you, Chairman Walsh, members of the subcommittee. I am Ellen Lazar. I am the director of the Community Development Financial Institutions Fund at the Treasury Department.

With me today are my two deputy directors, Maurice Jones, our Deputy Director for Policy and Programs, and Paul Gentile, our Deputy Director for Management and Chief Financial Officer.

I would like to ask the Chair to submit my written statement for the record and----

Mr. Walsh. Without objection. Summarizations are appreciated.

Ms. Lazar. Thank you.

I will delve into four major points very quickly here this morning--management program activity, evaluation and impact, and our fiscal year 2000 budget request.

First, let me say that I am happy to report that we had a clean audit for 1998 from our auditors, KPMG Peat, Marwick. We had already gotten a clean audit in '97 for the previous three years, but Peat, Marwick had noted a number of material weaknesses in our operations, which we have corrected over the past year, and they have so noted in their report to us. We are just delighted with how the audit came out, and we brought an advance copy for you of that report.

Mr. Walsh. Thank you. We will enter those into the record also.

[The information follows:]

Offset Folios 1551 to 1559 Insert here

The Growth of CDFI

Ms. Lazar. We have done a very intense job of improving our infrastructure, our administrative processes and procedures. We have hired additional staff over the past year. And we have spent time really making sure that our funding gets out in an expeditious manner.

We also entered into a strategic planning process the results of which we transmitted up to you here at the Hill for consultation and discussion.

So we spent the whole year really developing a good strategic plan to work on for the next five years, and the budget was based on that strategic plan.

Our program activity too has been refined, and we have put policies and procedures in place to more effectively manage our programs. The Fund's mission is to promote access to capital and local economic growth through the support and investment in community development financial institutions. Also, our mission includes expanding financial service organizations, traditional lending, investment, service, and support of underserved markets in distressed communities.

To that end we serve a host of different types of institutions under the umbrella of CDFI's; community banks and community development credit unions, which are both regulated institutions, community loan funds, which are often nonprofit loan funds that provide lending for housing or for business, microenterprise loan funds and community development venturecapital organizations.

We run a number of programs that provide financial support for those institutions. Our CDFI program encompasses our Core program, our Technical Assistance program, and our Intermediary program, which helps finance and support these organizations. We also run the Bank Enterprise Awards program, which provides incentives for financial institutions to increase their activities in distressed communities and their investments in community development financial institutions. In the past three years we have provided \$190 million to support these efforts through the Fund.

We also run a nonmonetary program, the Presidential Awards for Excellence in Micro-Enterprise Development. That program basically has been established to promote best practices and to demonstrate the work that is being done in micro-enterprise around the country.

We have two new initiatives that we began this year to complement the work that we are doing with CDFI's. One is a Native American study, which was encompassed in our enabling legislation. What we hope to be able to do is provide greater access to financing for tribal communities and lands held in trust by the United States.

We also have begun work on our policy and evaluation program. We have set up a policy and research shop within the Fund, and our first two activities have really been started to evaluate the impact that the funding has made in the communities that we have worked in. I would like to talk about that for a minute.

In 1996 we made our first round of awards, and we funded 31 organizations. We have some preliminary data back from a survey that was sent to the first 25 of those organizations. Those 25 organizations represent \$29 million of investment by the fund. That money has helped create \$198 million in community development loans and investments, which has resulted in creating or expanding over 800 micro-enterprises and over 800 businesses, created or retained over 10,000 jobs, developed over 8,000 units of affordable housing, developed a host of

child care centers, health care centers, human services and education facilities, and also provided business training, credit counseling, home buyer training, and other development services to over 6,000 individuals.

The awardees have basically strengthened their capacity to deliver services. Since the awards were made, their assets have grown by 127 percent, from \$429 million to in the aggregate in 1998, \$972 million. Seventy-one percent of the clients these institutions serve are low-income, 48 percent live in the inner cities, 41 percent rural areas, and the balance in suburban communities.

We are also working on in-depth case studies of some of the organizations that we have funded. We have completed the field work for Boston, Santa Cruz, and San Antonio, and some details of those case studies are contained in the longer testimony.

We found this preliminary data to be very informative and useful to us as we develop our programs and better assess how the work we are doing is flowing.

For our fiscal year 2000 budget we have asked, as you noted earlier, Mr. Chairman, for \$30 million above our fiscal year 1999 funding level of \$95 million. Those funds are \$15 million for an increase in our basic activities and \$15 million for a new program, the PRIME program, which stands for Program for Investment in Micro-Entrepreneurship.

The authorizing legislation for this program was introduced by Congressman Bobby Rush and Chairman Leach as H.R. 413, and introduced by Senators Domenici and Kennedy as S. 409. The PRIME Act will allow the fund to provide technical assistance and training to organizations that are working with individual microentrepreneurs around the country. This legislation contemplates that 75 percent of the funding will directly go into the services that are being provided to individuals, 15 percent would be available to these microenterprise organizations to help them develop and grow, and 10 percent would go into research and development in the field. I think that we are uniquely suited to administer this program. We work with community-based institutions that serve low-income populations.

We really feel that the funding requests will help us continue our ability to provide greater access to credit for all Americans. I look forward to working with you all this year on trying to make this appropriation a reality, and thank you for your time here this morning. If you have any questions, I am happy to entertain them.

Mr. Walsh. Thank you very much.

I understand Mr. Mollohan does not have an opening statement, and so we will go right to questions and alternate back and forth.

Micro Loan

You have answered most of them, which will shorten things up substantially. On the micro-entrepreneur program, how many months of experience do you have with this now?

Ms. Lazar. We have been working with micro-enterprise organizations since our inception. We have made awards for micro-enterprise organizations that are financing institutions

that have been providing credit since 1996.

Mr. Walsh. Okay. And what are the size of the loans?

Mr. Jones. To the micro groups?

Mr. Walsh. Yes, to the borrower.

Mr. Jones. Oh, the borrower. You may see a loan to a borrower----

Mr. Walsh. You provide funds to local CDFI's.

Mr. Jones. Right, to the intermediary.

Mr. Walsh. And then they work with their constituencies.

Mr. Jones. Right. The loans could be as small as \$100. They could be as small as \$500. What we have said is it is usually no more than \$25,000. That is really the definition of a micro loan.

Mr. Walsh. What is the uncollectible rate of those loans? Do you have any idea?

Mr. Jones. It varies.

Mr. Walsh. What is the systemwide average?

Mr. Jones. Well, we have seen numbers as low as 2 percent as far as a loan loss ratio.

Mr. Walsh. Um-hum.

Mr. Jones. But I cannot say that we have done any in-depth study to verify those numbers. And also those numbers do not clearly distinguish between loans that just have not been written off yet.

Mr. Walsh. Um-hum.

Mr. Jones. And so there is a delinquency rate issue as well.

Mr. Walsh. Sure.

Mr. Jones. But we have seen numbers as low as 2 percent. And we have seen some numbers as high as 10 percent. But it is very competitive.

Mr. Walsh. It would be good if you could give that question some thought so that you could get back to us.

Ms. Lazar. Sure, we would be happy to.

Mr. Walsh. Obviously if a number as high as 10 percent is a number, that is pretty good. As low as 2 percent obviously is a lot better. But, you know, the Grameen Bank sort of model operates way down around 2 percent or better.

Mr. Jones. Yes, and those are the sort of numbers that we are seeing.

Mr. Walsh. Thank you. I have no other questions.

Mr. Mollohan.

Mr. Mollohan. Mr. Chairman, I came in a little late. I apologize for that.

CDFI Authorization

Did you speak to your authorization and the status of your authorization? Are you requesting an authorization?

Ms. Lazar. No, I did not, but I am happy to do that.

Mr. Mollohan. What is your authorizing committee?

Ms. Lazar. Our authorizing committee is the Banking Committee, and we got as far in the House last year as getting through the Subcommittee on Financial Institutions. Mr. Vento and Mrs. Roukema reintroduced our authorization bill this session. It is H.R. 629.

Mr. Mollohan. What do you feel its prospects are?

Ms. Lazar. We think that here in the House it is probably pretty good. We are less sanguine about the Senate.

Mr. Mollohan. Is Mr. Domenici a cosponsor on the Senate side? And who else?

Ms. Lazar. In the Senate side our reauthorization bill has not been introduced yet. The PRIME Act legislation, which is a separate----

Mr. Mollohan. Ah, correct, that was Domenici.

Ms. Lazar. Piece of legislation, is cosponsored by Mr. Domenici, Senator Kennedy, really a bipartisan group.

Mr. Mollohan. Do you expect to have an authorizing bill introduced in the Senate?

Ms. Lazar. We are waiting to see what will happen. We certainly hope so.

Mr. Mollohan. Please elaborate on that a little bit. What is the status?

Ms. Lazar. Well, we have not spoken with the majority yet about this in the Senate.

Mr. Mollohan. Do you expect to do that?

Ms. Lazar. Yes. We hope to do that as soon as I think financial modernization discussions are over with, people have a little bit more time for us.

Mr. Mollohan. I see. Okay. The PRIME program, I like it, but it sounds a little Small Business Administrationish to me.

Ms. Lazar. Yes.

Mr. Mollohan. How do you justify your having responsibility for administering this program versus the Small Business Administration?

Ms. Lazar. Maurice?

Mr. Jones. I think the main justification for the Fund having this as opposed to any other Federal entity for that matter, including SBA, is that the focus here really is community development, and that is what we do. If you look at PRIME, 50 percent of these dollars have to go to very-low-income individuals, individuals who are actually probably holding down other low-wage jobs while running small businesses.

Mr. Mollohan. So you are doing similar things----

Mr. Jones. We are doing similar things.

Mr. Mollohan. But your entry point is a little different.

Mr. Jones. Yes. Yes.

Mr. Mollohan. They would be coming at it from a business standpoint----

Mr. Jones. Right.

Mr. Mollohan. And you would be coming at it from----

Mr. Jones. From a community development----

Mr. Mollohan. Standpoint.

Mr. Jones. Yes. And our view is micro-enterprise, and I think this is not just our view but domestically micro-enterprise is definitely a development strategy.

Mr. Mollohan. So you are trying to fill community development needs, right?

Mr. Jones. Right.

Mr. Mollohan. Geographically how many States are you in?

Ms. Lazar. We are now in 43 States around the country, in Puerto Rico and the District of Columbia. We are working--we do outreach efforts where we go out and talk about our programs

all around the country, and we are trying to focus on the States where we do not have quite as much activity.

Mr. Mollohan. Are you in West Virginia?

Ms. Lazar. Yes, we are.

Mr. Mollohan. You are?

Mr. Jones. We are.

Mr. Mollohan. Where?

Mr. Jones. We are in--well, believe it or not, I was in Flat Woods, West Virginia, about four or five months ago.

Mr. Mollohan. That is close. [Laughter.]

Mr. Jones. We have community works----

Ms. Lazar. In Big Chimney.

Mr. Jones. Big Chimney and Lightstone Community Development Corporation, which is in Moyers.

Mr. Mollohan. You are getting further away. [Laughter.]

Mr. Jones. Tell us where you want us. I think I can get there.

[Laughter.]

Mr. Mollohan. I have no further questions.

Mr. Walsh. Mrs. Northup.

Mrs. Northup. Yes. I am delighted to have you all here today and have a chance to look at your budget requests and what you do.

Community Development Bank

The Community Development Bank in Louisville, KY, is fabulous. I think they have turned a \$2 or \$3 million grant from you into about \$35 million. They are very high-profile, they are very engaged with the community, and they have engaged a lot of individual contributions which not only brings money but also brings an engagement, involvement. It has helped close what I believe is not only an economic division but racial division and every kind of division that exists in many cities.

I would just like to tell you that I have great faith in the people, the two people that sort of coadminister it and are good friends with Ms. Lazar. They have a lot of appreciation for the changes that have taken place since you have come on board, and they do feel like that it has been an experience dealing with the feds and that sometimes they do feel like they are fighting with one hand tied behind their back. And I hope that you'll keep that in mind as you continue.

My constituents didn't ask me to ask this, but I will anyway because I have felt that Louisville has--considering the program they have put together done a great job. It's sort of taken our breath away, but we weren't an easy area, and no matter how highly successful this Community Development Bank has been, I have the feeling that there are some that haven't been quite so successful.

One that maybe comes to mind is Atlanta's. But that is so vague maybe I shouldn't even say that. Are there some CDFIs that have not turned the assets into more money and growth and opportunity?

Mr. Jones. There have been none, and I want to knock on wood as I say this, so far that we have made awards to that have been failures--not even close. On the contrary all of them are performing services that are so needed in their communities

that almost by their presence alone they are actually being successful.

I will say that we attempt to help those that we think are deficient internally and attempt to help them better serve their markets and we usually do that through technical assistance. We provide technical assistance monies to these institutions, but so far what we are seeing, and we are just in the stages of preliminarily getting data back, these CDFIs are tremendously successful in turning around communities and helping individuals build wealth and skills.

Mrs. Northup. And the ones that are the most successful, do you have any flexibility that you can give them--sort of tie them less to the bureaucratic mazes that so frustrate them?

Mr. Jones. We would like to think that we are doing that actually for all of them. The ones that are more sophisticated frankly are usually those that we, for instance, can get money to quicker. It is really the ones that we have to do more hand-holding that--and this is generally speaking--that take a longer time for us to for instance get them their money after we have awarded it.

There are some things that we can do to try to streamline application requirements and streamline reporting and we are constantly trying to do that.

Mrs. Northup. Let me just quickly comment on the micro-credit, and I am not sure of its presence in Louisville. That is the next question that I am going to ask, but the question about the SBA I think is really a good one because in the most depressed neighborhoods in our community, there's actually some really impressive leadership. It mostly has come through the churches and almost every day I am stopped by people in those areas who have really good ideas who want to start a very small business. They may be contemplating a little coffee shop. It may be a repair--shoe repair. The SBA requires a pretty difficult process for them to go through for the very small amount of credit that they want.

I think the idea with SBA is always that it has to be backed up. What the Community Development Bank tells me is that all the ideas about lowering a huge plant into the most depressed areas is unlikely. It takes all of the rehabbing houses and the small businesses moving back in for this to happen. They are finding great success with this but the need for professional infrastructure, law support, accounting support and so forth, that comes along with the micro-credit is also needed. I just thought I would put a plug in to the committee for the need to look at microcredit. It's really needed.

Ms. Lazar. Thanks.

Mr. Walsh. Thank you. Mrs. Kaptur.

fundamental existence and other initiatives

Ms. Kaptur. Thank you, Mr. Chairman.

I have followed the--first of all, welcome to the committee and I have followed the Clinton Administration's proposal on community development financial institutions since it was first proposed before the Banking Committee in first term and I testified against it--as you probably know--and I have watched

its development over the years and I would say to you, Ms. Lazar, you have a very hard job, and in looking at your background I really support what you have done with your life's work, and I just question this structure to achieve the goals that many of us who serve on the development committees of Congress wish to achieve.

Some of my questions will relate to your fundamental purposes for existence and how you relate to other initiatives that are out there to support development, particularly in communities that have less capital available to them.

One of the largest achievements of the decade of the '80s in my opinion in the banking area were passage of the Home Mortgage Disclosure and Community Reinvestment Acts, and in some ways I view your initiatives in some ways as counterproductive to actually getting institutions to reinvest in the communities in which they take deposits.

I noticed that the focus of this proposal today for the next fiscal year we're going to put more emphasis on the bank enterprise--what you call the bank enterprise initiative and in your justification you talk about as one of your successes an award that was made to Chase Manhattan Bank in New York--it is on page 5--for over \$2 million for which they provided an equity investment of \$475,500 and lines of credit of \$31,300,000.

Now am I correct in reading this that for the \$2.2 million that you awarded them they received a return of 7 percent over the first six months plus anything that they might receive from the returns on the line of credit down the road. Am I correctly reading the numbers?

Mr. Jones. I don't think so to the extent I understand your question. What we provide them is not a loan to Chase Manhattan Bank, and what they--what we provide from---

Ms. Kaptur. A grant.

Mr. Jones. Right. We provide them with a grant and we provide them--our grant is if they make an investment in a CDFI, if it is an equity investment or if it is a grant, et cetera, we provide them 15 percent of that money, 15 percent of whatever the amount of that grant is, provided that what they have done is increased their investments in CDFIs from the previous year.

So for instance if all Chase Manhattan Bank is doing is continuing to do what it has been doing in this area for years, if it doesn't increase it, then they get no money from us at all. They have to increase their investments in CDFIs or in other distressed areas in order to even qualify for money from us.

Ms. Kaptur. But shouldn't they do that anyway under what the Home Owners Disclosure and Community Reinvestment Act would call for---

Mr. Jones. No, ma'am.

Ms. Kaptur [continuing]. Because they are a commercial bank?

Mr. Jones. Under CRA there is no requirement that they increase their investments. There is a requirement that they continue to be invested in these areas. The distinction with us is they can continue to be investing in these areas for years but if they don't increase their investments they get no money

from us.

What we are trying to get is more activity, not just activity itself.

Ms. Kaptur. Well, I am very interested in what their rate of return is. I mean it is amazing to me that we would give a cash grant to Chase Manhattan. The most profitable institutions in this country today are the banks and I have been after them my whole life. They are very unpopular in my district right now because of the fees that they are charging--these aren't exactly community-friendly institutions. We have had to wrestle them down to the mat for a long time, and so the thought--if I were to go to my taxpayers and say we are giving \$2 million to Chase Manhattan Bank, I think they would be floored.

I am interested in the rate of return to Chase Manhattan and I will ask your accountants for some further clarification on that. You are trying to achieve good. I know what you are trying to do. I am not sure you are on the right horse and I am very, very concerned about taxpayer dollars going to reward banks, especially when you are now increasing the amount of that in this budget request.

The second point I wanted to make--on page 3 I think it is you talk about the types of institutions that benefit and this is really where my problem was way back when the Clinton Administration proposed this. You wanted to help Community Development Banks, and I would like to know how you define those, because isn't every bank supposed to be involved in community development to some extent, community development credit unions--if I had my druthers I would have put every dime that you are using of the taxpayers' money into the furtherance of community development credit unions across this country, particularly in the technical assistance arm, nonprofit loan funds, micro-enterprise loan funds, and community development venture capital funds.

Ms. Lazar. Yes.

Ms. Kaptur. I would like to know in each of those categories how many institutions do you actually serve with these dollars and then what dollar amounts have they gotten?

Ms. Lazar. I could give you some indication of that now or I could give you a fuller written response to it, if you would prefer.

Ms. Kaptur. All right. I would prefer the written response but I would like to get your sense as to just ballpark where is your primary and secondary emphasis?

Mr. Jones. Let me just give you a sense of the groups we have funded in the categories that you mentioned.

With respect--well, actually, let me give some background. CDFIs have to meet certain tests to be designated as a CDFI, whether they are a bank, whether they are a credit union, whether they are a venture capital fund, et cetera, and there are six tests.

One is that their primary mission has to be community development. The second is that they have to serve a target market. That probably is the distinction and what we mean by having to serve a target market is you have to be in business to provide credit and services to poor people. That has to be your primary mission, not providing a return to your shareholders.

All banks don't do that. Community Development Banks do and that is the distinction between just any bank and a Community Development Bank.

The third requirement is that they have to be accountable to the markets that they are serving, which means either they have residents of that market on their board so that those residents have a voice, or by some other means those residents, those poor folks that they are serving can articulate their opinions in a way that gets incorporated in the operations of the organization, so it may be an advisory committee, it may be a regular survey that they do on an annual basis to their clients, what have you, but that is the third requirement.

The fourth is that they have to be a financing entity, which means that their predominant business activity has to be making loans or making equity investments in these areas, providing capital, not technical assistance or any other thing.

The fifth is that they cannot be a governmental entity, which means they can't be controlled by a government entity or part of a government entity so that their decisions are not politically based but based on the market needs of their area.

Then finally--what did I leave out----

Ms. Lazar. Development services.

Mr. Jones. Development services--they have to provide not just credit. They have to provide technical assistance in conjunction with the credit. Those are the distinguishing characteristics of a CDFI and not just any bank actually does that. You really have to purposefully be a CDFI. You can't just be a community bank.

Bethesda Community Bank is probably not a CDFI.

Ms. Kaptur. Do you maintain a list of, if I might interrupt----

Mr. Jones. Yes, ma'am.

Ms. Kaptur. And how many of those are there in the country?

Mr. Jones. How many Community Development Banks?

Ms. Kaptur. Community Development Banks.

Mr. Jones. I can tell you that we have funded 13 Community Development Banks so far.

Ms. Kaptur. How many of those were new starts?

Mr. Jones. Of the new starts, and I am guessing because I am going to have to go back and do an examination for you, but Louisville----

credit unions

Mrs. Northup. Our community bank in Louisville was funded.

Mr. Jones [continuing]. Was one. Albina in Portland, Oregon was another, Cleveland was another, so perhaps half of those were startup institutions, institutions where just like in Louisville the community came together and said, yes, we do have banks but what we need is a community bank. we need banks that are serving people that the mainstream institutions are not serving. That is the distinction.

Now you asked about credit unions. Whereas we have funded 13 Community Development Banks, we have funded 40 credit unions because credit unions are, just like you said, they are on the front line of community development work and they have been there for a very long time.

We have also funded the trade association for community development credit unions, the National Federation of Community Development Credit Unions in New York, so that they could take those monies and give them to other credit unions, so in terms of emphases we have funded far more credit unions than we have funded Community Development Banks.

Ms. Kaptur. In numbers, but what about dollars?

Mr. Jones. Dollars? That may be one I'll have to submit to you later because I don't have those numbers before me.

Ms. Kaptur. Well, I will submit I appreciate the clarifications and I will appreciate for those categories listed on page 3 the numbers and then the dollar amounts.

I only have two other small items.

One is I would hope that as you perform your work over this next year that you will give a serious look to public housing developments across this country. One of the most disenfranchised group of people financially are people residing in public housing, many of whom are mothers with children, seniors, disabled, veterans, lots of people across our country. Most of them do not have access to normal financial services and there are millions and millions of dollars that go into those buildings in the form of welfare payments and everything else. People have to cash checks in a serious manner from Chicago to L.A. probably to Miami.

Ms. Lazar. Yes.

Ms. Kaptur. And we can't seem to get the kind of focus on people who reside in those dwellings as we do in a lot of others and they don't normally have employee-based associations and so forth where they can form a credit union.

I think there is a lot of work to be done there and I personally think the credit union is the right way to go in those places, even with terminals, but I would encourage you to look at that and---

Mr. Walsh. Ms. Kaptur, could we ask you to submit the rest of your questions?

Ms. Kaptur. Yes, I will be happy to do that.

Mr. Walsh. Because we have got two more members and we are already over the time limit and---

Mr. Jones. Mr. Chairman, if I could actually---

Mr. Walsh. Finish this discussion, obviously.

Mr. Jones. Let me just give you those numbers, because it turns out I do have them.

With respect to the banks, we have provided \$18 million to the banks. With respect to the credit unions including the credit union trade association, we have provided nine plus another seven, so we have provided \$16 million to the credit unions.

Mr. Walsh. Thank you. Mr. Frelinghuysen.

Mr. Frelinghuysen. Thank you, Mr. Chairman.

Ms. Lazar, it's nice to see you again.

Ms. Lazar. It's nice to see you.

Mr. Frelinghuysen. From all reports you get very high marks.

Ms. Lazar. Thank you.

working with hud and sba

Mr. Frelinghuysen. I noted in your performance and impact portion of your statement that you developed 8200 units of affordable housing. What specifically is your relationship with Housing and Urban Development and the SBA? How would you characterize your relationship with them?

Ms. Lazar. Collegial. [Laughter.]

Mr. Frelinghuysen. Collegial?

Ms. Lazar. Yes. The units that have been--that I noted in the impact are the units that have been helped created by the financial institutions that we have supported.

We work fairly closely with the Small Business Administration. We co-chair an interagency work group on micro-enterprise with the SBA. Both the SBA and HUD sit on the CDFI Advisory Board.

Mr. Frelinghuysen. So you have a good relation with the SBA. What is your relationship with Housing and Urban Development?

Ms. Lazar. Very collegial. They do serve on our advisory board and they do provide us with input and insight----

Mr. Frelinghuysen. We don't want to send out any vibrations out of this room, but sometimes people have characterized the SBA as so complicated to participate in the process that a lot of people just give up and turn to you as a viable alternative. I don't know how I would characterize HUD but obviously you are describing it as a collegial relationship, but there again is a bureaucracy that at times seems to be totally paralyzed.

Ms. Lazar. Yes.

Mr. Frelinghuysen. Because of its size and whatever--but you do have relationships with both of those Federal agencies?

Ms. Lazar. Yes.

Mr. Frelinghuysen. One should normally be suspicious about new programs, but I think that what you are doing here relative to the micro-entrepreneurs I think is to be commended. I think it sounds exciting and I think it will be interesting for us to hear how you have been able to measure the success of that program.

We are doing these types of things around the world. The fact that we would be doing them at home I think is an exciting proposition--a little money goes a long way, and I did of course note that you have two New Jersey projects, in Newark and Trenton, and I do have some other questions I would like to submit for the record. Thank you.

Ms. Lazar. Thank you.

Mr. Walsh. Without objection.

Mr. Walsh. Would you like to comment back after all of that wonderful praise or just leave it stand?

Ms. Lazar. I'll leave it. Thank you very much.

Mr. Walsh. Mrs. Meek.

Mrs. Meek. Thank you, Mr. Chairman. Of course I welcome you again.

You have given me once the list of all the CDFIs. I probably lost it. I would like to have it again.

Ms. Lazar. We'll get you one.

Capital Funding

Mrs. Meek. All right. As I listened to my colleagues around

the table, I welcome CDFIs because we need them in this mix and I would like to say that to my colleagues. There is such a need out there if I had three Cs I could give to this committee it would be capital, capital, capital.

You would be surprised at the quagmire that exists in our small communities and that's what Mr. Frelinghuysen was talking about, so if you have the banks with CRA, I don't want to tell you how I feel about the CRA--I have been out there about 40 years dealing with these banks and the CRA. You don't get that much return and when you do, there's a lot of confusion, but what I like about what you are doing, you are trying to give them some incentive so they will get out there, and I noticed that in your report that you are getting some leveraging off the money you put in there.

I say--I welcome that. I hope that you will continue that. I think that is a good initiative, so in terms of what you are doing out there with banks and credit unions, anything you can do to nudge the banks will be helpful and I welcome it because I know that if you get the leveraging and you got any money you have already done--it is well worth it, because in the community I serve it is very difficult to get capital.

We have a lot of good ideas and when I go out and I have a seminar on technical assistance, they get angry with me because they are tired of technical assistance. They get so much technical assistance and no money----

[Laughter.]

Mrs. Meek. They are looking for some capital and what you are doing is great, and I want to really, really urge the Chairman to really look at this very closely because you come up with a model that will work and in these small communities and particularly these impoverished communities, and I go back again to HUD--they are turning over a lot of stuff because of their new Federal initiatives and initiatives like you have--it's going to help. You are going to see some changes and I am hoping that if we have a new Empowerment Zone, I don't know whether the Chairman has any in his district or not----

Mr. Walsh. Not yet.

Mrs. Meek [continuing]. Okay, but it is really going to help us a great deal. It really is. Thank you very much.

Ms. Lazar. Thank you.

Mr. Walsh. Thank you.

Mrs. Meek. And I am amazed at the way they can pull the information out of the air. This young man is really something you have there. [Laughter.]

Mr. Walsh. He ticked off those six things pretty well.

Mrs. Meek. That's right. He's just jealous, Mr. Chairman.

[Laughter.]

Mr. Walsh. Are there any other questions?

[No response.]

Mr. Walsh. If not, we have concluded and we thank you very much for your testimony and we will submit other questions for the record.

Offset Folios 1589 to 1646 Insert here

U.S. COURT OF APPEALS FOR VETERANS CLAIMS

WITNESS

HON. FRANK Q. NEBEKER, CHIEF JUDGE, U.S. COURT OF APPEALS FOR VETERANS CLAIMS

Mr. Walsh. The subcommittee hearing is now in order, and today we are here to discuss the fiscal year 2000 budget request for the U.S. Court of Appeals for Veterans Claims, the new name of the Court of Veterans Appeals as of March 1st. Fiscal year 2000 budget is a request of \$11,450,000, of which \$910,000 is for the Consortium Pro Bono Program. This is an increase of \$1.2 million for the court and \$45,000 for the pro bono program.

I welcome Judge Nebeker--is that correct, Nebeker--- Judge Nebeker. That is correct, yes, sir.

Mr. Walsh [continuing]. The Chief Judge, and other members of the court.

Judge Nebeker, if you would please introduce your colleagues with you today, which you just did to me. There is no one to introduce them to right now, but maybe if there are questions, they may be asked to ask other individuals.

Your written statement will appear in the record, and you are free to summarize your statement. And I would like to introduce--Dena, Dena I forget your last name, so if you would tell me I can tell these folks that this is your first day on the job officially.

Ms. Baron. Baron. Dena Baron.

Mr. Walsh. Dena Baron is one of our new clerks. She was in sort of on a part-time, temporary basis, I guess, last year. I forget the name.

Ms. Baron. Detailee.

Mr. Walsh. Detailee. It is one of those military terms. And she now has the job. We are delighted to have her.

Ms. Baron. Thank you.

Judge Nebeker. Indeed, we met yesterday, and we are delighted.

Budget Overview

Judge Nebeker. Anyway, we will probably be the only court that you will have to consider appropriating for. The other courts, of course, are in the Judiciary subcommittees or DOD for the Court of Appeals for the Armed Forces, and I don't know what committee for the Tax Court. They are a legislative branch court to start with.

So being the only court, I can simply say that we are somewhat unique in terms of the budgeting, which you will be doing for the rest of the subcommittee's responsibility, in that we are mainly personnel and space insofar as our budget is concerned. I think you grasped that from what I heard you say a moment ago.

Both of those amounts are relatively fixed. And, as you indicated, the portion of our budget that deals with the Pro Bono Consortium is a somewhat independent part of our budget. Our budget simply is the vehicle for it. And Mr. David Isbell

is here, and if there are any questions with respect to his budget, he is the appropriate person to answer those questions.

The pro bono program is a vital part of judicial review, primarily because there are so many veterans who are unrepresented when they file their notices of appeal, indeed around 80 percent. With the bar that we have and the pro bono program, that percentage is reduced substantially by the time the cases are decided. And so they do a wonderful job for us and for the veterans community.

FTE Increase Justification

As you observed, our increase is \$1.2 million roughly, and that is for eight additional full-time equivalent positions. We need them, and I think I can tell you why in relatively short terms. A couple years ago or more, the Board of Veterans' Appeals was hopelessly behind in getting out its decisions. That crisis was brought to the attention of the subcommittee, and eventually the Board got the resources needed to increase its output.

Then we wound up with delays in Group VII of the General Counsel's Office. By statute, the general counsel must represent the Secretary before our court, and he had created a new section in the VA General Counsel's staff, called Group VII, to do that job. They were hopelessly behind. They were filing in excess of 400 motions a month to extend time to do the various things that are necessary to get the case before the court for disposition, running all the way from getting the record together, to filing briefs so that the cases can be submitted or argued and decided.

Last year, at this time, I implored the Chairman outside of my budget to be sympathetic to the requests of VA in order to eliminate that backlog below. The subcommittee and the VA were very responsive, and indeed, that group has, I think, doubled in size, and it has now reduced its number of extension motions substantially. There are still some, but they have been reduced substantially.

What effect? This would move the bubble to the court, and that is exactly what has happened. I will observe that in 1997, there were 1,611 dispositions by the court. In 1998, it jumped to 2,158. That shows you how the bubble did indeed move. That number of dispositions is probably the highest of any Federal appellate court per judge in the country.

So my imploration this year is to help the court complete the alleviation of the injustice caused by delay which has now reached our court. We do need one new law clerk for each judge. That puts us on par with not only the Federal courts of appeals, but the Federal district judges, which have three. And I think from that standpoint, the increase is justified.

Yes, we could say with the increase that we have, that we recommend two more judgeships. That would be far more expensive and probably in the long run a mistake simply because we can't project 10 years from now what the caseload will be, what the veterans population will be. If we have extra law clerks or additional law clerks, when they are not needed, they can be defunded, but two extra judges can't be for 15 years.

Mr. Walsh. That is true.

Judge Nebeker. Thank you.

Mr. Walsh. You are welcome. Thank you for your brevity and clarity.

[The information follows:]

Offset Folios 1653 to 1658 Insert here

Increase in Appeals

Mr. Walsh. In your notes that you didn't read, but I read them last night, you said, ``I anticipate the number of cases filed in the court will either continue at the current level or increase further.'' Then you go on to say that the court anticipates a corresponding continued proportion of appeals to the court; furthermore, as noted, statistics kept by the Board, denials do not include board decisions that deny some but not all of the benefits.

And you talk about the effect of--let me see if I can find it here--new case filings and net bubbling up to you. What is causing these increases of appeals?

Judge Nebeker. The output of the Board. With the increased output in Board decisions--let me give a little history. When the court was first created, the Board sat in panels of three, and they had a medical man as one of the panels--medical doctors as one of the panel members. We soon held that that a doctor could not ex parte testify without the veteran having an opportunity to respond, so they did away with the doctor member.

Then as time went on and pressures increased, the Chairman got congressional authority to sit as single Board members. That has increased their output substantially. Then, of course, they have increased staff and membership. And so that is the cause of the increase that puts the increase of denials at a higher rate, partial denials at a higher rate, and thus we get more notices of appeal.

Mr. Walsh. So since nature abhors a vacuum, as you provide additional opportunity for the veterans, they are going to fill that vacuum, and they are going to bring more cases. Is that going to happen to you also?

Judge Nebeker. I think so, yes. As there are more denials, there will be more appeals.

Mr. Walsh. Let's see. The number of denials by the Board of Veterans Appeals increased from 6,400 in 1995 to 10,000 in 1996 to 15,000 in 1997.

Judge Nebeker. There you go, that is it. And those are what they list as denials. We also get many cases where there is a grant, but say the effective date is not satisfactory to the veteran, or the veteran gets a certain rating, say a 30 percent rating, and he or she thinks it should be 70 percent. We get that.

Mr. Walsh. So they are going to come back again?

Judge Nebeker. Yes.

Impact of Additional Law Clerks

Mr. Walsh. Okay. Will one additional clerk per judge meet

the need as you have estimated there will be?

Judge Nebeker. Yes. I think if there are more than one, we would have a span of control problem in some chambers, and it probably would not work. I know of no court that has four law clerks.

Mr. Walsh. With these additional people, when do you anticipate sort of stabilizing this backlog?

Judge Nebeker. I wish I knew. We can't predict whether there will continue to be a marked increase. An extra law clerk will help deal with that increase if there isn't a further increase. An extra law clerk will certainly expedite getting rid of the backlog that already exists.

Mr. Walsh. What would cause this to decline, an extra law clerk?

Judge Nebeker. Probably the demographics of death. We are reaching a point where World War II veterans, they don't have that much longevity expectation. But who knows, we are now getting a few cases, believe it or not, from the Gulf War. I just had one the other day, the first one I had.

Mr. Walsh. I got a report from the Buffalo office, I am not sure if they were appeals, I think they must have been appeals, and there were no veterans, but there were survivors of the Mexican--I believe it was the Mexican War.

Judge Nebeker. Oh, yeah.

Mr. Hobson. That was a long time ago.

Judge Nebeker. Mr. Hobson, how are you, sir?

Mr. Hobson. Good morning, sir.

Reprogramming Request

Mr. Walsh. We have a reprogram request is for \$153,000 moving funds from operations activities to payroll. What operation activities will lose funding to the proposed payroll activities?

Judge Nebeker. The adjustments in rent are accountable for much of that. GSA gives, and it takes away, and the voodoo behind it is something I can't comprehend. We had to take money--anticipate money out of travel, a few things like that, but the major part of it was rent.

Mr. Walsh. So the reprogramming won't have any adverse effect upon your operations as a court?

Judge Nebeker. We don't think so. Where we are able realistically to undertake the reprogramming--may I explain?

Mr. Walsh. Sure.

Judge Nebeker. We have experienced, as you perhaps are aware of, many instances where there have been continuing resolutions because the appropriations process wasn't complete.

Mr. Walsh. It won't be the case this year.

Judge Nebeker. If that is so, then we can reprogram. If it is not so, bringing in young law clerks and saying, you can work for us for 3 months, because there is no guarantee beyond that, because if we get a continuing resolution, we are strapped, and we can't pay you, so that causes a problem. And we are just kind of watching and waiting.

Rent Budget vs Renovation Costs

Mr. Hobson. Mr. Chairman, could I interject something while you are talking about rent and stuff like that?

Mr. Walsh. Yes, absolutely.

Mr. Hobson. One of my questions is going to be about your rent.

Judge Nebeker. I read your questions, sir.

Mr. Hobson. Did you read it? Can you answer it? I gave them ahead of time, of course.

Judge Nebeker. I just got it before you came in.

Mr. Hobson. Yes.

Judge Nebeker. Unless Mr. Comeau is able to answer from the top of his head.

Mr. Hobson. Just so the Chairman knows, can you restate the question as you understood it, sir?

Mr. Comeau. It said that our budget shows a decrease in rent from \$1.808 to \$1.8 million, a minus 4 percent adjustment, at the same time our O&M budget increased 13-fold from \$15,000 to \$200,000. And then adding these categories reflects a 9.7 percent increase.

There are two different categories of money that we are talking about here. The rent is controlled by GSA. That is something beyond our control.

Mr. Hobson. That is what I am trying to say, that is not true. You can fight with them over rent. You need to do it.

Mr. Comeau. We have--over the last few years, we have given away space that has reduced our rent. We have also negotiated reduction of the parking space rates. So we have decreased our rent. We have gone about as far as we think we can go.

The increase from 15- to 200,000 is largely a one-time renovation cost to accommodate these additional personnel.

Mr. Hobson. That is fine. That is all I wanted to know.

Mr. Comeau. Next year it will drop down.

Pro Bono Budget

Mr. Walsh. On the pro bono program, you are requesting an increasing of 5 percent over last year's level. Does the pro bono program anticipate seeing the same increase in workload as the court due to the high number of appeals decisions?

Judge Nebeker. I think I can answer that question for Mr. Isbell. The answer is yes.

Mr. Walsh. Then why only a 5 percent increase?

Judge Nebeker. I will defer to him to respond to that. He may want to respond in writing.

David, can you hear him?

Mr. Isbell. What was the question?

Mr. Walsh. The question was, the Judge is anticipating fairly substantial increase in workload. We are putting on seven or eight additional people on the pro bono program, which I would think is proportional to the workload that they are seeing. You have requested a 5 percent increase.

Mr. Isbell. We may have underprojected. I don't think at the time that we prepared our budget we were aware that there was going to be that substantial an increase in the court's level. Hopefully, we will be able to squeeze by. If it turns out that we can't, I guess we will be back here with hat in hand seeking a supplementary appropriation. That is not something we had to do

previously.

Mr. Walsh. Well, we will be doing our supplemental for the year this week, so we may have to wait a year to make any adjustment.

Mr. Isbell. I am simply not in a position to tell you----

Mr. Walsh. We will give it a try and see if we can----

Mr. Isbell. I don't have a sense, even having read the court's budget submission, of what the likely increase in productivity of cases being--it won't be cases being decided by the court, it will be an increase of cases coming to the court.

Mr. Walsh. I don't know if it would be possible, but if you get into a jam, we could look at the possibility of reprogramming those funds from the court to the pro bono program. I don't know if that is an option.

Mr. Isbell. I think the Court would be unhappy to do that.

Judge Nebeker. We have been down that road a few years ago. That is why we have tried to keep the budgets absolutely separate.

Mr. Walsh. All right. Okay. That is the end of my questions on that.

Mr. Isbell. Mr. Chairman, I might just point out, having thought about it a moment longer, this isn't going to increase the court's productivity. We are not dealing with the court's product, we are dealing with the cases that go to the court. If there were--if the court's increased staffing is based upon an expectation of a substantially greater caseload, then it could be that we have underplanned. But we don't deal with the decisions that the court has issued so much as cases going to the court.

Mr. Walsh. All right. Thank you very much.

Mr. Hobson.

CASELOAD PROJECTIONS

Mr. Hobson. I just have a couple of quick questions. I would like to go back over the staffing a little bit. The caseload increased 6.4 percent or 142 cases from fiscal year 1997 to 1998. Maybe you said this before I came in the room. What do you project your caseload to be in 1999?

Judge Nebeker. Probably it will continue to increase. I am unable to give you a hard figure or even a guesstimate. We do know that Group VII, the general counsel's branch that represents the Secretary before our court, has increased their productivity almost double, and that means the cases will get to us more and faster.

And so there is likely to be a spike in the increase simply because of the backlog that existed there. They will move it quicker than they otherwise had done.

Mr. Hobson. What is your backlog now?

Mr. Comeau. 2,298 cases as of the end of January.

Mr. Hobson. Did you go over this? Did you already ask this?

Mr. Walsh. Yes. We talked about the backlog, and also looked at what is happening at the Board of Veterans Appeals. The Court anticipates that since they follow those decisions, their backlog will increase as the number of denials has increased dramatically at VBA. I mean, there were 6,400 in 1995 and almost 16,000 in 1997. So since the Court reacts to those

decisions, those denials, that that is a fairly easy leap of faith to assume you are going to have a continued backlog until we get these additional people on board.

AVERAGE TIME TO ADJUDICATE CASE

Mr. Hobson. What do you think the average time from submission of a case to adjudication? Just the average. I know they vary, but can you look at that?

Mr. Comeau. Yes, sir. Of those cases that were disposed of from the last month of fiscal 1998, that is September of 1998, they took an average of 389 days. Now that is up about 40 days from the year before.

Mr. Hobson. Is there any reason for that?

Judge Nebeker. Yes.

Mr. Comeau. Yes, there is.

Judge Nebeker. When a notice of appeal is filed, there are numerous steps that must be taken to mature the appeal. To begin with, out of the claims file must be culled the relevant documents used to base the Board's decision. Those documents have got to be identified, duplicated, and then the Secretary has the responsibility of filing the record on appeal in the court. After that, there is the responsibility of the appellant, the veteran, to file a brief.

We have much conferencing with the pro ses, because they don't know what to do next. That burns up some time. Eventually the Secretary must file a brief--he was hopelessly behind a year ago, and that took a great deal of time--once the case is submitted to the court for a decision, either without oral argument or with oral argument, which can add substantially to the time lapse, too, if it is to be argued.

Mr. Hobson. Sure.

Judge Nebeker. The time between submission to the court and decision is nowhere near that excess of a year. Most of that time is burned up in getting the case at issue.

IMPACT OF ADDITIONAL FTEs ON BACKLOG

Mr. Hobson. Okay. Let me just ask one final question on that. If you get the eight new FTEs that you want, and I just want to get this on the record, how will the new staff impact your backlog? How will the new staff affect your ability to handle more cases?

Judge Nebeker. It will increase our capacity and our output of case dispositions.

Mr. Hobson. No. What are you saying? Is it going to give you another 100 cases, another 200 cases? It is not an exact science, I understand that.

Judge Nebeker. No, I understand that. I would say 52 times 7 times 2.

Mr. Hobson. 52 times 14?

Judge Nebeker. Yes. In other words, a law clerk working with a judge on average can get two a week.

Mr. Hobson. So 700 cases.

Judge Nebeker. Yes. The new clerks would increase our capacity to that extent.

Y2K COMPLIANCE

Mr. Hobson. Well, I just wanted to get out what we are doing here and what the effect was going to be, Mr. Chairman. And I have another question I won't ask, but you can do it for the record, and that is the year 2000 stuff that you have.

Judge Nebeker. I think we are all right on year 2000, aren't we, Bob?

Mr. Comeau. Yes, sir.

Judge Nebeker. I am advised there is no problem.

Mr. Hobson. I want that in the record.

Mr. Walsh. It is in the record.

Mr. Hobson. If something doesn't work--yours is probably easier than some other places, I guess?

Judge Nebeker. I think so.

Mr. Hobson. But I am just trying to get as many people on that as we can.

Thank you, Mr. Chairman. I have another hearing I have got to attend.

Mr. Walsh. Great thanks for your question.

Mr. Knollenberg.

Mr. Knollenberg. Mr. Chairman, thank you, and, Judge.

Judge Nebeker. Good morning, sir.

PRO BONO FUNDING

Mr. Knollenberg. Thank you for coming. I just really have a simple question. I have heard some of the testimony--or some of the questions and your comments in regard to the pro bono program, which I know in years past we have had discussions about. But I wanted to ask you, what percentage of the pro bono program is funded by appropriations, and how much is through private sector means?

Judge Nebeker. Let me defer to Mr. Isbell for that.

David, did you hear the question?

Mr. Isbell. Yes.

I am David Isbell. I am the Chair of the Executive Board of the pro bono program.

The question was what proportion of the support in the program is provided by public funding?

Mr. Knollenberg. Versus appropriations.

Mr. Isbell. Contrasted with private funding. Well, let me say the principal contribution of resources to the program is the time and services of volunteer lawyers. I can look up the precise figures as reflected in our last time.

Here we go. There are four organizations that are the constituents of the Consortium, and they make contributions in terms of services provided and also goods provided. The total value of the organizational contributions for fiscal year 1997----

Mr. Knollenberg. Maybe just a ratio would be----

Mr. Isbell. [continuing]. Is 200,000.

Mr. Knollenberg. Give me the actual numbers, if you like. But just the ratio between the two would be all I am asking for.

Mr. Isbell. That would have been a ratio of approximately 1/3.

Mr. Knollenberg. Three to one.

Mr. Isbell. A little less than a third of the appropriation. But we figure that the total value of nonorganizational contributions, that is to say the donated time of volunteer lawyers, was in that year 3,400,000. We have a multiplier factor of something like 4 to 1 of Federal---

Mr. Knollenberg. Four to one.

Mr. Isbell. [continuing]. Of Federal funds by \$4 worth of result.

Mr. Knollenberg. That is fine. Thank you. That is all I wanted to know.

Thank you, Mr. Chairman.

Mr. Walsh. All right. Mr. Cramer.

IMPACT OF ADDITIONAL FTEs ON BACKLOG

Mr. Cramer. I want to pick up, and maybe it is a little bit redundant, Mr. Chairman, as I heard my colleague Mr. Hobson asking questions about backlog.

Judge Nebeker. Yes.

Mr. Cramer. In my district, one of the frustrating things for my office caseworkers to be involved in is trying to sort through families' issues as they await a determination by the Board of Veterans' Appeals. You are adding--your plan is to add eight new employees. In your opinion, does that rest the backlog issue as best you can address it, or are there other ways to evaluate your progress with the eight new employees and the impact that that has on the backlog?

Judge Nebeker. I think it is the best way to address the backlog problem now. As I explained earlier, we could justify asking for two new judges with the incremental staff that they have; that is, two law clerks apiece and so forth. But if we did that, one, it will be far more costly than a simple renovation of space to crowd in another law clerk. We would have to have new chambers, and that would likely mean new real estate somewhere else. Then in the event the backlog peaks or begins to dissipate with the infusion of more resources, we would be there with the nine judges and probably not justified in having nine judges for the caseload.

The bottom line is with the extra clerks, if they become unnecessary, they can be defunded, but you can't defund a couple of additional judgeships. They are good for 15 years.

Mr. Cramer. Who said that the average time for a case to be adjudicated was 300 now, 339 days?

Mr. Comeau. Three hundred eighty-nine days.

Mr. Cramer. Three hundred eighty-nine days.

Mr. Comeau. That was for the cases that we decided in September 1998.

Mr. Cramer. Has that gone up, gone down or stayed the same?

Mr. Comeau. It has gone up from the year before. It is about the same as it was the year before that.

Mr. Cramer. Why do you think it went up from the year before?

Mr. Comeau. I think, because as the Chief mentioned, the bubble has moved to the court level because of increased efficiencies at the Board level below us, and within the VA General Counsel's Office that argues their side of the case,

they have been holding up the adjudication of cases, and that 389 days reflects some of that.

Mr. Cramer. You anticipate that the number of cases will continue at their current level or increase?

Judge Nebeker. Yes.

Mr. Comeau. Yes, it will probably increase.

Mr. Cramer. Is that as much because of the Board has expanded jurisdiction?

Judge Nebeker. Expanded capacity.

Mr. Cramer. Expanded capacity?

Judge Nebeker. Yes.

Mr. Cramer. Explain to me. I am a new member of the committee. I probably should know.

Judge Nebeker. Appeals are taken from regional offices to the Board of Veterans Appeals. It is a unique board. It is an appellate tribunal, but it can also accept evidence and rule on factual questions. They sit on single-member panels now. It used to be there were three; now they are down to one member. When they ultimately get to deciding the case, the law requires that they express their reasons and bases. They just can't say, granted, denied. They must articulate why they take the action that they take.

That increased capacity at the Board level has produced a marked increase in the number of denials of benefits. And, of course, those are the things that are going to filter up to us.

Mr. Cramer. Okay. That is all I have, Mr. Chairman, thank you.

CONCLUDING REMARKS

Mr. Walsh. Okay. I believe then that that does conclude our questions of the court, and we thank you for your responses. There may be other questions that will be submitted in writing for the record.

Judge Nebeker. We will be happy to answer them.

Mr. Walsh. As of now, you are all set.

Judge Nebeker. Thank you. It is a pleasure to meet you.

Mr. Walsh. Nice to meet you, Judge.

Offset Folios 1677 to 1704 Insert here

Wednesday, March 3, 1999.

SELECTIVE SERVICE SYSTEM

WITNESS

GIL CORONADO, DIRECTOR, SELECTIVE SERVICE SYSTEM

Mr. Walsh. And we will now make room for the Selective Service. I understand they are here. We will give them a chance to get themselves organized, and we will proceed.

[Pause.]

Mr. Walsh. All right. The second half of the hearing this morning is with the Selective Service System. We welcome Gil Coronado from the Selective Service System to the fiscal year 2000 budget hearing.

Selective Service is requesting \$25,250,000 for fiscal year 2000, an increase of \$824,000 over fiscal year 1999 appropriation.

Mr. Coronado, if you would like to introduce the people who are with you, we note that for the record, and then we will proceed.

Mr. Coronado. I certainly will. Seated with me are two key members of the Selective Service leadership, Mr. Willie L. Blanding, Jr. on my right. He is the agency's Executive Director, who was here with me last year. And further to my right is Lew Brodsky, Director of Public and Congressional Affairs, who has appeared on behalf of Selective Service many, many times.

Mr. Walsh. Very good. Well, we welcome you and ask you to please proceed with your opening statement.

Mr. Coronado. Thank you, Mr. Chairman.

Chairman Walsh, I am indeed pleased to appear before you for the very first time, and I congratulate you on your assignment as the new subcommittee chairman. I am proud to bring before the distinguished members of this subcommittee the Selective Service budget request for fiscal year 2000.

I have a written statement that I would like to submit for the record, if that meets with your approval.

Mr. Walsh. Without objection.

Mr. Coronado. Mr. Chairman, the President's budget request for fiscal year 2000 proposes funding of the Selective Service System at 25,250,000. At this level, the agency can perform its statutory missions and offset Federal pay raises, inflation. We are excited about our great innovations, such as on-line registration and verification, expansion of our Website and preparations for Y2K, and we are grateful to the subcommittee and to the Congress for continuing to provide us with funds necessary to serve as an important participant in America's national defense.

Mr. Chairman, members of the committee, I am proud of what Selective Service does for America. I hope you share in that pride, and I thank you for your support as I answer your questions about our fiscal year 2000 budget request.

[The information follows:]

Offset Folios 1708 to 1716

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Mr. Walsh. You are a man of your word. You said a minute and a half, and I think you did even better than that. Thank you.

We will now welcome our Ranking Member of the subcommittee, Mr. Mollohan.

Do you have any comments or opening statements?

Mr. Mollohan. No, thank you, Mr. Chairman.

Registration Compliance

Mr. Walsh. All right. We will go right to questions then. Last year, sir, you testified that the compliance rate was 93 percent for men between the ages of 20 and 25 and about 90 percent for all draft-eligible men between 18 and 25. What is

the most current compliance rate for draft-eligible men?

Mr. Coronado. The most current for the draft-eligible--when we say draft-eligible, Mr. Chairman, we are speaking of men, ages 20 to 25, comprising the draft-eligible age group. The total compliance rate is for men 18 to 25.

Mr. Walsh. All right.

Mr. Coronado. For the draft-eligibles, we are at 94 percent.

Mr. Walsh. So you are up a percent over last year?

Mr. Coronado. No, we are down by three percentage points. The 1997 draft-eligible compliance percentage was 97. By the end of 1998, it dropped to 94 percent.

Mr. Walsh. One thing that I have noticed, I have children in college, two boys, and there is always a question on the financial aid forms about draft status. Do you have a figure on those draft-eligibles who are in college, what the rate would be if that helps to improve that rate of compliance?

Mr. Coronado. Certainly. If more men go into college, the higher our registration rate would be, because there are benefits needed by college men that are tied into registration----

Mr. Walsh. Sure, right.

Mr. Coronado [continuing]. Student aid loans and individual government jobs and so forth. In the past, a young man would ask for student aid loan and then wait until he could prove that he was registered with Selective Service. So we now have a working agreement with many, many universities so as not to delay the process. Now, we have an on-line verification process.

Mr. Walsh. So the colleges contact the Selective Service to verify whether that information was answered correctly?

Mr. Coronado. Yes. They just go on-line. They enter the person's name, date of birth and Social Security number. A screen comes right back to them to verify that the man is registered.

Mr. Walsh. You do get a higher compliance rate from college-enrolled men?

Mr. Coronado. Absolutely.

Mr. Brodsky. If I can answer, I can provide how many registrations, on average per year, come in to us through the Department of Education Federal student aid form. There is a check-off box on those student aid forms that the Department of Education shares with us that allows us to automatically register men from those forms. And that number is available; we just have to research it for you.

Mr. Walsh. All right, good.

Registration Blitzes

Mr. Walsh. Last year you referred to registration blitzes as part of your plan to increase registration compliance. What do you estimate the impact of these will be?

Mr. Coronado. The reason we went into blitzes, Mr. Chairman, is because the trend for the compliance rate of 18 to 25 is down. We were able to identify 21 major metropolitan areas where we concentrated our awareness and registration efforts.

Mr. Walsh. So the trend is down among the 18 to 25 group?
Mr. Coronado. The entire group.
Mr. Walsh. Although in the draft-eligibles it is up?
Mr. Coronado. It is not up, because in past years that really was about 97 percent; it is now 94.
Mr. Walsh. All right.
Mr. Coronado. Yes, sir.
Mr. Walsh. So it is a slight variation from last year?
Mr. Coronado. It is a slight variation, but we are very uncomfortable with the trend and the way things are looking.
[The information follows:]
Offset Folio 1722 Insert here

Mr. Walsh. Okay, all right. So, yes, that is a pretty steady trend.

Mr. Coronado. The projected trend, as you can see, was dangerously going down, and because of the blitzes we were able to stem it. Now the problem is that we have 5,000 young men that turn 18 every single day, so it is not a cure-all problem that you can go in and fix it and walk away. It is a continuous thing. And we are faced with some of the same problems that the Armed Forces are faced with, and that is the indifference, perhaps, to the government, to the military. Why should we sign up with a draft system we don't even know is there? The awareness, among and education of, American youth is what is lacking.

Mr. Walsh. So you attribute that decrease in compliance rates just to general apathy?

Mr. Coronado. The lack of knowledge, the lack of information. We do not have enough resources to go out with a strong nationwide public awareness program, so this is why we are using the blitz method, where we can go in and speak to the centers of influence and get them to assist us by proclamation or other measures that they can bring awareness to their communities, and we can raise our compliance numbers.

Mr. Walsh. How does this blitz work?

Mr. Coronado. A blitz works by going in and zeroing in on the zip code. We know the estimated percentage of compliance as we walk in. We make appointments to see the mayors, the Governors of the States, the elected officials, the centers of influence. We concentrate on the superintendents of schools. We ask for their support. We get a lot of media coverage.

And what is happening now, and we can show you that on the map, too, is the fact that most of the areas where the blitzes are concentrated have two factors. One is an increase in recent arrivals, the people that are coming through the immigration process or otherwise, a lot of recent arrivals, the numbers of immigrants are way up. And also the areas have a higher than average high school dropout rate. Those two factors combined, keep the young men in these areas outside mainstream America. Although we work on the schools, we find ourselves having to go to the Spanish press, the Spanish media, and using all kinds of innovative communications processes.

I was at the Press Club about 2 years ago giving a speech on Selective Service and the need for everybody to understand the benefits and so forth, and a lady raised her hand. And she said, those are very important benefits; don't you have those on a little card?

So that gave birth 2 years ago to this card that we now have, and it states, ``Register with Selective Service, stay eligible for,' ' and it gives you all the things that you would lose out on, the reason being that you must register with Selective Service when you are 18; you cannot register once you turn 26. So it is the window in every young man's life. When they turn 26, 27, and failed to register when they were younger, they have just blocked themselves out of many benefits.

So now we find ourselves looking at how we can improve this card. We will be reprinting this card in four languages. We are working on this right now to reach the specific groups of people that we need to reach in four different languages.

So all of these innovative ideas and shuffling of resources with Selective Service is what we have been all about in the past couple of years.

Mr. Walsh. What are the four languages?

Mr. Brodsky. Korean, Vietnamese, Mandarin Chinese and Spanish. Those are the languages that INS tells us will reach the majority of the sizable immigrant populations in the U.S.

Mr. Walsh. Korean, Vietnamese, Mandarin Chinese.

Mr. Brodsky. Chinese simplified characters, and Spanish. That is in printing right now. It will be a fold-out card about the same size as the current card, when it is folded, but once it is folded out, it will have the four languages giving the same basic information.

Mr. Coronado. Mr. Chairman, if I may--the irony of this whole thing is that we are registering more people today, but our figures are dropping, because we have an average of about 100,000 new entrants in addition to what we had anticipated every single year. So it is a problem with recent arrivals.

It is a problem with the high school dropouts that we are trying very hard to reach. We are running hard. We are carrying the ball. We cannot score the touchdown, because a goal post keeps shifting every year, and that is basically what is happening.

Mr. Walsh. I know the feeling. You say that with your Internet registration, you have registered 10,000 men in December. You said 5,000 a day turn 18, so that would be 150,000----

Mr. Coronado. That's correct.

Mr. Walsh [continuing]. A month?

Mr. Coronado. If we were to use just that one method, but we are not. The Internet is just one more element--one more----

Mr. Walsh. I am saying you registered 10,000 over the Internet, but that is 10,000 out of 150,000.

Mr. Coronado. That's right.

Mr. Walsh. Does this save you money doing it that way?

Mr. Coronado. It is a matter of cost avoidance if they register on the Internet. And this is a recent innovation started on the 2nd of December--and we are very proud of it because we have cracked 33,000 since then with an average of

about 10,500 a month. But what it does, it saves staff time in the processing, entering the data into our system, because the applicant, the registrant, will do it themselves. It is all automatic. So the costs avoided can now be diverted to other customer service initiatives that we have.

Mr. Walsh. Have you seen any problems with that registration, that electronic registration?

Mr. Coronado. No, sir. In fact, we are very, very proud of that. And we understand that schools, libraries, everybody will be on-line by the year 2000. So we are tracking right with where we ought to be, and coupled with the fact that the core group that we are looking for, the 18- or 19-year-olds and some 20s and 21s that fail to register, those are the men who are computer-savvy. Those are men who are into the Internet. So it is a perfect marriage between the on-line registration and the American youth.

Mr. Walsh. I would think that some organizations would find that information on the profiles and so forth of these individuals, 18-to-25 males, of value. Is your security system sound? Do you have consummate faith in the fact that that material is not available to anyone else over the Internet?

Mr. Coronado. Absolutely, sir. We have an industry standard security processing where the person would enter the data, and it is encrypted as it goes through the on-line process. Then, when it reaches us, the only people that see the information are the Selective Service personnel.

Y2K Status

Mr. Walsh. Okay. Since Mr. Hobson isn't here, I will ask you for him, what is your Y2K status?

Mr. Coronado. The Y2K status, we have looked at every single program that we initiated and have internal within Selective Service. We have gone through the whole process, and now we are contracting out an independent company to come in and verify where we are at, and we are very confident that we are Y2K-compliant. On all the other systems that are not of our control but that we interface with, we are assured that they are all Y2K-compliant.

We anticipate no problems at all with the Y2K, but having said that, we have directed everybody in Selective Service, all the directorates, all the offices, to have a backup plan, a manual system, so that we are prepared to conduct the people's business whether or not we have a Y2K problem.

Mr. Walsh. Good.

Mr. Mollohan.

Statistical Data

Mr. Mollohan. Thank you, Mr. Chairman.

Director Coronado----

Mr. Coronado. Yes, sir.

Mr. Mollohan [continuing]. Your testimony is that you are registering about 95 percent of the eligible registrants; is that correct?

Mr. Coronado. No, sir, it is not. We are----

Mr. Mollohan. Is that percentage down?

Mr. Coronado. We are facing a 2 percent drop between the 1997 and 1998 calendar year. In past years we were overall in the very, very high 90s, but what concerns us is a drop to below 90 percent compliance in any system, because we say that Selective Service must be fair and equitable. In case there were to be a draft, it must be based on fairness and equity. This is what concerns us once you drop below 90 percent.

Mr. Mollohan. Last year in your prepared statement, you indicated the compliance rate was at 95 percent; is that right?

Mr. Coronado. Was that overall?

Mr. Mollohan. You tell me.

Mr. Coronado. Eighty-nine this year overall, 91 percent last year.

Mr. Mollohan. How does that compare to last year?

Mr. Coronado. We are facing a 2 percent drop in that area.

Mr. Mollohan. And this year you are saying you have a 2 percent drop down to 94, 93?

Mr. Coronado. We are at 94 overall; is that right?

Mr. Brodsky. Let me give you the figures.

Mr. Mollohan. That is what I thought I first asked you.

Mr. Brodsky. Let me help you out, sir, if I might. Last year we were measuring 18-to-25-year-old compliance at approximately 91 to 92 percent, and we were measuring the draft-eligible age groups, men turning 20 through 25, at a higher figure of 96 or 97 percent. What we have seen is a 2 to 3 percentage drop in each of those categories. So currently 18-through 25-year-olds measured at the end of calendar year 1998 is 89 percent, and that is the first time since we have dropped below 90 percent in the overall category. That is what is of concern to us.

Mr. Mollohan. Okay. What are the demographics; who are you not reaching?

Mr. Coronado. The ones we are not getting to, sir, are the minorities of our Nation, Hispanics, the African Americans, the inner-city kids, the gang members, the high school dropouts, the recent immigrants. The law applies to any men physically in this country whether or not they are here in a legal status, other than the unlawfully admitted nonimmigrants. They really don't have the information, so----

Mr. Mollohan. Thank you.

Measure of Effectiveness

What is your definition of success in registration?

Mr. Coronado. My definition of success in registration would be a very comfortable high 90s percent.

Mr. Mollohan. What do you base that on? How realistic is that?

Mr. Coronado. We have some good numbers from the Census Bureau, sir, that we worked----

Mr. Mollohan. No, no, I am sorry. Why would you think you could get in the high 90s registration? Do you have a standard for what you want to reach?

Mr. Coronado. We call it fairness and equity, which we feel that the American people would certainly look at the fairness and equity of any draft. And the figure would be in the high 90s.

Mr. Mollohan. So you think you should achieve a 98 or 99 percent registration rate among the eligible population?

Mr. Coronado. We certainly have achieved that in years past for the higher aged men.

Mr. Mollohan. When did you last have that rate?

Mr. Coronado. In the higher ages?

Mr. Brodsky. Five or six years ago.

Mr. Mollohan. You had what?

Mr. Brodsky. Ninety-seven percent.

Mr. Brodsky. Yes, we were fairly high in previous years. You have to remember for us that registration is not a voluntary process, every man is obligated to do it, so you would expect a high degree of compliance for people who want to obey the law. Obviously, you are going to miss some people, but what concerns us now is that we are missing more people than we would like.

Mr. Mollohan. Okay. Is this drop-off in the immigrant population principally?

Mr. Coronado. We suspect that it is, sir. There is 800,000 backlog applications right now, for example, in the pipeline at INS, and we are trying to determine, working with them, how many of those are males between the ages of 18 and 25.

Mr. Mollohan. Let me tell you why I ask this, because it is fairly curious that the percent that you are not able to reach in both of these groups, but particularly in the 20-to-25 group, tracks pretty closely the percentage that the Census Bureau cannot count. And we have a huge debate about that, and many people say, including experts, Mr. Chairman, that the only way you can get to that group is through some statistical processes. Obviously wouldn't work here.

So I am just wondering what is a realistic success rate, and what is your strategy to achieve a realistic success rate? The first thing you have to do is decide, what is our goal, what is our realistic goal, and then what kind of resources can you apply on a realistic strategy to achieve that goal?

Mr. Coronado. You are quite correct, absolutely.

Mr. Mollohan. I am just wondering, as you confer with people, do you confer with the Census Bureau on this issue?

Mr. Coronado. Yes.

Mr. Mollohan. What do they tell you in 1999, versus 1993 when you had a high rate, is a realistic definition of success and you can declare a victory?

Mr. Brodsky. Sir, I don't think we measure a victory that way.

Registration Rate

Mr. Mollohan. How do you measure victory?

Mr. Brodsky. We have gone on record for years as saying we believe that we would have a fair and equitable draft----

Mr. Mollohan. What does that mean?

Mr. Brodsky. Well, it means that the American public would have confidence that the draft system being operated was, to the degree possible, fair and equitable. And we have always gone on record saying if we maintain compliance rates of over 90, 90 percent or above, comparable to an A grade in school, that would give us reasonable assurance, and give the American

public reasonable assurance, that the ensuing draft would be fair and equitable.

So it is not a question of this drop-in rate, not allowing us to accomplish our mission, if you want to define it that way, because we could still obviously run a draft and provide adequate numbers of draftees, even if this rate was much lower. The problem is that the American public wouldn't accept a draft that is not considered fair and equitable.

Mr. Mollohan. There are a couple of different missions here. One mission is to achieve some realistic registration rate?

Mr. Brodsky. Exactly.

Mr. Mollohan. I am trying to ask for that. You are asking for resources to get at it, and I will look at it more closely so I will understand it.

Mr. Brodsky. Sure. But to say again, we are on record as saying we would like to keep these compliance rates at 90 percent or higher for the sake of perceived fairness and equity, which I think is more important to the American public.

Mr. Mollohan. On that standard, you are dropping below your goals?

Mr. Brodsky. Yes, sir.

Mr. Blanding. Yes.

Mr. Coronado. Congressman, if I may, sir, also coupled with the fact for the last 5 years--when I walked into the agency, we had higher figures--but as the budget decreased--and we have a copy of the budget as it went--that we started are seeing the drop. And if--I may not be able to define success to you. I can define failure. That is the track we are on. This is why it is important to us.

Mr. Mollohan. Okay. Well, I understand how you are applying resources on this problem. I can look at it more closely.

Thank you, Mr. Chairman.

Current Budget Adequate

Mr. Walsh. Just a last question to follow up on Mr. Mollohan's line of questions. Can we get to that high 90s compliance rate with the current budget?

Mr. Coronado. With the current budget we cannot. We spend approximately \$3.70 for each registration we process. With the current budget, that is what we do. It would take approximately another dollar per registration to be able to do the things we need to do to correct this downward trend, and bring registration compliance back into the 90 percentile and stabilize it.

Mr. Walsh. What does that mean in terms of your overall budget?

Mr. Coronado. What it would mean in terms of our overall budget, we are roughly 2 million dollars short. We register 2 million men per year. Now, what this acknowledge card does, Mr. Chairman, is a triple hit for America. With this card we verify that a man is in compliance with the law. It provides him with proof that he is eligible for all of these benefits. And very, very importantly what we do, instead of that old drab bureaucratic card that says nothing but, here is your number, we now ask him to get involved in America's future. We tell him

about service opportunities. And here is a copy I would like to leave with you, if I may, of our new acknowledgment card.

And so it does a number of things. We are able to reach the same people that DOD is spending an average of \$13,000 to reach, and we can do that for under \$5, right at \$5 apiece, if we were able to get the resources that we need to send that and bring it back up to where it should be.

Mr. Walsh. Do these other activities, such as verification and customer service or the volunteer awareness business, do they take away from your core mission? Do they take away from your core mission of registering young men?

Mr. Coronado. What we would like, of course, is the on-line verification, because it doesn't involve people, and every year our pot gets bigger. We now have 41 million active records, so that people who want to verify, they want to know when they signed up with Selective Service, every year we add almost 1.8, maybe 2 million to the pot. We never throw those records away since 1980.

So naturally our business gets bigger every year, and it has more demands on the staff, more time. So any innovation such as on-line verification, on-line registration helps us to be able to perform the job.

Mr. Walsh. These ancillary lines of business, verification, customer service, volunteer awareness, do they cost money that could be better spent just registering young men?

Mr. Brodsky. There is a trade-off, obviously. I think the more you have to spend on registration processing and getting awareness up of the requirement leaves you, with a fixed budget, little for doing customer service work. That is why we are trying to take any resources gained by Internet registration, and shift them into customer service, because there currently is no other place to get the resources we need.

But it has not, I think, detracted on the whole from the overall registration process. I think it is more a question of a goal post shifting with constantly having to reach more men in a growing population despite our fixed resources.

Mr. Walsh. All right. Any other questions?

Mr. Mollohan. No, Mr. Chairman.

Mr. Coronado. Mr. Chairman, I would like to conclude by saying that we know where we have the biggest registration problems. They are in the states of New York, California, Florida, Texas, and Illinois because they have so many people and new immigrants coming in.

Mr. Walsh. Big cities.

Mr. Coronado. Big cities with lots of high school dropouts. So we are continuing to do work in those states. We will be in New York the 10th through the 12th of March, or around those dates, and we are working it very hard because we have got to get the word out to the American youth. The beauty of America is that everybody is entitled to pursue the American dream. No young man in America is going to be able to pursue the dream unless he registers with Selective Service and preserves the benefits that are associated with registration.

Mr. Walsh. All right. Well, thank you all very much for your important service and for your testimony.

Mr. Coronado. Thank you, sir.

Mr. Walsh. This hearing is concluded.

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Wednesday, March 24, 1999.

DEPARTMENT OF DEFENSE, OFFICE OF SCIENCE AND TECHNOLOGY POLICY

WITNESS

NEAL LANE, ASSISTANT TO THE PRESIDENT FOR SCIENCE AND TECHNOLOGY AND
DIRECTOR OF THE OFFICE OF SCIENCE AND TECHNOLOGY POLICY

Opening Remarks

Mr. Walsh. The subcommittee will come to order.

Good morning. Today we will take testimony on the fiscal year 2000 budget requests of the Office of Science and Technology Policy, and for cemeterial expenses, Department of the Army. We will start with OSTP, whose fiscal year 2000 request is \$5,201,000, which represents an increase of \$175,000 over fiscal year 1999. Testifying before us this morning is a longtime friend of the subcommittee, Dr. Neal Lane. Dr. Lane has been with us on several occasions in his previous capacity as Director of the National Science Foundation, and now he joins us for the first time in his new capacity as Director of OSTP and Assistant to the President for Science and Technology. In a moment I will ask Dr. Lane to summarize his oral testimony, and your written statement will be entered into the record in full.

Before doing so, I would like to recognize my friend and colleague, Mr. Mollohan, for whatever opening remarks he may wish to make.

Mr. Mollohan. Thank you, Mr. Chairman. I would like to welcome Dr. Lane to the hearing today, and I look forward to working with him in his new capacity.

Mr. Walsh. We are also joined by Mrs. Meek and Mr. Frelinghuysen, and I suspect others before we are finished.

Dr. Lane, please proceed.

Dr. Lane's Statement

Dr. Lane. Thank you very much, Mr. Chairman, and members of the committee. I am very pleased to appear before you today. My written testimony describes the Office of Science and Technology Policy budget request for fiscal year 2000, and it also provides some highlights of the OSTP enterprise during 1998, and the Administration's 1999 and fiscal year 2000 R&D budget request, and I would appreciate its insertion in the record.

Mr. Walsh. Without objection.

Dr. Lane. Thank you.

I have really enjoyed my association with the committee and appreciated the support of the National Science Foundation and myself, and more generally, the committee's support of the very important Federal science and technology programs.

Since moving to OSTP, I have had the opportunity to work

with yet another group of outstanding individuals, and many of them are here today, our Associate Directors and members of the senior staff, and they will be happy to help with questions along the way. We wanted to be sure to answer your questions as completely as possible.

As you know, OSTP plays a vital role in leveraging the government's science and technology investments for broad national goals. Support for such investments has traditionally been a matter of bipartisan agreement. It is imperative, I believe, that we build common ground in support of a shared vision and commitment to keep America the world's leader in science and technology.

functions of ostp

OSTP has four main functions. First, we advise the President and other senior Administration officials about the impacts of science and technology on public policy and vice versa.

Secondly, we coordinate the work of the R&D agencies to make sure that we get the biggest bang for the science and technology dollars.

Third, we promote strategic partnerships among science and technology stakeholders, State and local government, industry, academia, and various international players.

Fourth, we report on what we have learned through all of these efforts. Last year OSTP shepherded 11 multiagency reports through the National Science and Technology Council and seven letter reports through the President's Committee of Advisors on Science and Technology, the latter body being nongovernment experts who advise the executive branch on all matters of science and technology.

information technology initiative

An example which provides the breadth of OSTP's influence is our work on the Administration's Initiative on Information Technology for the 21st Century. This initiative responds to a wake-up call from the congressionally-chartered committee, the President's Information Technology Advisory Committee, or PITAC as I will call it. OSTP was instrumental in getting this committee established in the first place.

We also worked closely with the committee to make sure that its work was useful to the Federal agencies while also challenging those agencies to think outside the box about their responsibilities and their possibilities in information technology research.

Once we had the PITAC recommendations, OSTP pulled together the Federal agencies to develop a response, and we ultimately concluded that information technology is so important to this Nation, that we are proposing a new Federal R&D investment of \$366 million in fiscal year 2000, and that is a 28 percent increase above and beyond all of our ongoing research programs that relate to information technology. Out of this total, Mr. Chairman, about half, \$184 million, comes through your subcommittee.

To develop the initiative, we worked with the agencies to

examine the existing information technology research programs to determine how we could later expand to get the best returns from these new investments. If you are going to make a 28 percent increase on a base, you really need to look at that base very carefully to find out where those investments can best be made to meet the requirements, the laid-out priorities of the advisory committee, and at the same time optimize the total Federal effort. The agencies have worked very, very well together in doing this.

investments in information technology

We decided to make the new investments in three major areas. First, about two-thirds of this total \$366 million will support long-term fundamental research aimed at fundamental advances in computing and in communication. So this is \$228 million, and this money will go primarily to research carried out by computer scientists and computer engineers, asking very new and fundamental questions about new ways to compute and new ways to communicate over long distances and with complex data. So that is the biggest part of this initiative, to support that kind of long-range research.

The second element is \$123 million to support advanced computing infrastructure, machines and networks as a tool to facilitate important scientific and engineering discoveries of national interest. The resulting supercomputer infrastructure will be orders of magnitude more powerful than those currently available to the science community. So this second part is to take the very best and most powerful existing technology and apply it to some particularly challenging science and engineering research problems. So the people who will work on these projects and machines will be physicists, chemists, atmospheric scientists working on tough problems, and we can provide some examples of that.

The third part, small amount of money, but it is a very important piece, is \$15 million in new funding to expand research in the social, economic and work force impacts of information technology, including how social institutions are being transformed by information technology; the impact of legislation and regulation; electronic commerce; barriers to the diffusion of knowledge and technologies of that information; and effective use of technology and education, what works, how much do you need, those kinds of questions. But this initiative approaches these questions as research questions. Much of the research will be supported by the National Science Foundation, and then there are some smaller programs.

One area that highlights the importance of these three areas is our ongoing work on the human genome. By providing fundamental advances in computing, the initiative will enable progression from sequencing the human genome to design of new drugs. It will also enhance our ability to address important social issues that are raised by these breakthrough discoveries, such as genetic privacy.

Information technology is changing the world, and you are talking about a \$600 billion industry that is growing very rapidly. E-commerce represents a third of the recent economic

growth, which is having a major impact on our country and its relationship with other nations. So the point here is there are some underlying questions that need attention. Some of them are research questions. We want to be sure that they are addressed by the very brightest and capable people. This is what this initiative is all about.

Information technology is the largest of the R&D initiatives in the fiscal year 2000 budget. OSTP also played a critical role in developing some of the others, such areas as the plant genome research initiative, food safety, emerging infectious disease, sustainable development, critical infrastructure protection, educational research and several others.

coordinating s&t policy

So I ask you today for your continued support of OSTP's role in coordinating science and technology policy for the executive branch and for the Nation at large. OSTP's budget request of \$5.201 million and 40 FTEs for fiscal year 2000 represents a budget increase of less than 3\1/2\ percent and an increase of one person, one FTE. These additional resources are essential to continue to provide the highest quality of work across our broad spectrum of responsibilities.

Mr. Chairman, and Members of the Committee, I hope the brief overview combined with my written statement has conveyed to you our commitment to advancing science and technology in the national interest and the importance of OSTP's role in that enterprise. Regardless of party affiliation, in the end we can all agree that investments in science and technology are indeed investments in the Nation's future. I look forward to achieving bipartisan support for a national science and technology strategy that will combine the resources of industry, academia, nonprofit organizations, and at all levels of government to advance knowledge, promote education, strengthen institutions and to develop human potential. I ask not only for your support for OSTP's fiscal year 2000 budget, but for the larger science and technology budget as well. I also want you to know how much I appreciate the long-standing bipartisan support of the committee for OSTP and for science and technology research. I would be happy to answer any questions that you have.

Thank you, Mr. Chairman.

Mr. Walsh. Thank you very much for your statement.

[The statement of Dr. Lane follows:]

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investments in r&d

Mr. Walsh. I am sure that we will have lots of questions. I have some very specific ones about your role, but let me begin by asking a general question and giving you a chance to expound as much as you would like.

Yesterday we had Administrator Goldin in from NASA, and we talked about a lot of things, primarily rocket science, but his--as a scientist and as someone who oversees about a \$16

billion budget, he looks around, and people he talks with in the businesses that he deals with, and he expressed this quite clearly, a very grave concern about our investments in research and development, both applied and basic research. And I am sure that he is talking about the science that he is involved with, but I think he also was speaking generally about the investment that our Nation is making in research. And he expressed a very grave concern that very few organizations today, business, private sector, public sector, are looking 20 years out. In business you are not rewarded for looking 20 years out. You are rewarded quarter to quarter. As you saw the stock market yesterday, if you had a bad quarter, you didn't do very well.

So just your thoughts on that. Obviously you are putting a lot of eggs in the info tech basket, but at the same time I am told that this really, along with being the information age, and I come from the information industry before I came here, and I agree with that characterization, it is also the age of biology, and biology is going to solve so many of our problems.

We have this huge wrestling match every year about the cost of Medicare and Medicaid, and the cost of health care, and the fact that there are 43 million uninsured Americans, and seemingly biology could help us to solve a lot of those problems by helping us define less expensive cures and reducing amount of hospital time.

Just generally what are your thoughts on what we are doing as a Nation, as a world, globally, in terms of research and development, and in a perfect world, in your mind, what should we all be doing?

Dr. Lane. It is an important question and a large one, Mr. Chairman. Let me make a few comments, and it is something that I could spend the rest of the day talking about.

Mr. Walsh. We may. We will have to get back to the budget sooner or later.

Dr. Lane. My time is your time.

First, the very good news is that this Nation has made very substantial investments in science and technology. Increasingly the burden of those investments on research have fallen on the Federal Government. So it is sort of a funny situation. The overall R&D investment has increased in the private sector to the point where the Federal Government nowonly makes approximately a third, I think--only invests about a third of the total R&D in the country. But quite correctly what Mr. Goldin has said about this, that the investment made by the private sector is very much toward short-term needs and very much away from even historical experience of industry in putting substantial monies into basic research.

So it is just very clear to me not only from the numbers, but from every conversation I have with people in the private sector, they are depending totally on the Federal Government to provide the support for basic and, I would say, much of the applied research. It all has to do with is meant by the variety of words, but let's just talk in terms of long-term/short-term focus. Industry is continuing to focus more and more sharply on the near term, on the product lines, on the short life cycles of the products, and information technology is a good example, but as you point out, it is not the only one. There are many others, in biotechnology and in other sectors. So I do agree

with that observation.

student research

The fact is, though, that because of long-time strong Federal investment in science and technology by the Federal Government, this country is in the lead in most fields, most important fields of science and engineering. The question is will we continue to be, and how did we get there. One way we got there was to keep the investments strong, but we also got there by bringing to our country students and researchers from other parts of the world who saw opportunities here in the United States to carry out their research here, their studies, and then some of them would stay and join our work force.

There are two things that I think about that. One is that it is very fortunate that these young people decided to do that because we became very dependent on their knowledge and skills. We would be in a much worse position had they not been here with regard to science and technology.

But there is a danger if we become dependent on young people coming from other parts of the world to study and do their research here because the trends indicate that not as many want to come, and those who come want to go back. And in the meantime, we continue to have a very hard time attracting sufficient numbers of young people from underrepresented communities, women and minorities. We work hard at that issue. It remains a significant challenge. We have not been as successful as we need to be.

So this issue of who is doing the work and what our expectations are going to be for the future I think is a serious part of this. So I am very worried about the implications on the human resources side downstream.

And then the other thing, the final thing I would say is that much of the growth in the Federal investment in R&D has been in the biomedical arena, and terrific wonderful things have happened as a result of that, major breakthroughs in essentially every area of human biology. But as Harold Varmus himself points out, it is also important to make the investments, the increased investments, in the physics and the chemistry and the computer science and the engineering so that those technologies and that knowledge base that the biomedical researchers need and have used all through the years remain fresh, remain at the frontier.

So we have to worry about balance, and by balance I don't mean somehow we need to slow down our investments in biomedical research. I think those things are very important to people, and the work is excellent. But we do need to build up the rest of the support base for science and technology, and I know that is hard at a time when the budgets are constrained, and they are constrained for very good reasons. And so the budget that the President has brought over for science and technology is consistent with the agreement with the Congress, and I think the President has done a good job within that budget to show the high priority that he places on science and technology. But it is a constrained budget with which we work, and we understand the constraints on the committee as well.

Mr. Walsh. Is there any area of research that you think we

need to take a serious look at?

Dr. Lane. I think that this initiative shows that of all of the things that I just talked about, for the reasons that I mentioned and others, research on information technology and on the use of information technology is particularly a high priority at this time. And that is why, even in a tight budget, the President has brought this initiative over.

It is timely. The people are there to do the work. The report of the advisory committee is in some ways a little alarming as to how far we have moved away from making these long-term investments in this particular area, and it is on that basis that we put this initiative together.

ostp performance measurement

Mr. Walsh. Let me get to the more mundane issues, and then I will yield to my colleagues.

Near the beginning of your fiscal year 2000 budget justification, you discuss OSTP's general goals. There are four: Advise, coordinate, and promote partnerships, and assess and report. I know you intend to ask the President's Committee of Advisors on Science and Technology, or PCAST, to assess OSTP's performance in meeting these goals, but in the meantime I am wondering how you would rate the office's performance in this regard now that you have been on the job for a year?

Dr. Lane. Mr. Chairman, I am really happy to have that question because I continue daily to be impressed with the job done by this relatively small office.

It is an extraordinary responsibility. At the beginning of the administration, this office was handed the responsibilities for the Space Council. There used to be a Space Council, and it had its own staffing, but when the size of the staff of the OSTP were reduced, as were other offices in the White House, OSTP was asked to take on this very important responsibility. So we now look after space issues, all of them; so everything NASA does, but also interaction with the services and commercial space activities. We do that with three outstanding people at OSTP.

Similarly, we have a small staff that follows and coordinates activities having to do with things like the U.S. Global Change Research Program and climate change initiatives, the Partnership for a New Generation of Vehicles, a number of important multiagency activities that, without our staff's close involvement, simply would not be coordinated. There is nobody else to ensure that these agencies work together in a way that optimizes their performance and expenditure of the money and meets the goals of the interagency research efforts.

What we try to do is not coordinate things that don't need coordinating. We don't go into agencies and try to run their affairs. That is not a good idea, first of all; and in the second place, we don't have any staffing for that. We don't do that. We do work closely with other offices of the White House with all aspects having to do with the science and technology budget. So OMB, the President's Office, the Vice President's Office, but in terms of sitting down with the agencies and hammering out agreements and finding out where the gives and takes are, we reserve that activity for those programs that involve several agencies and that we feel really need

coordination. The one exception might be the space area, because we have a special responsibility for space, and so we work very closely with NASA on a whole range, essentially the entire range, of space activities, research and otherwise.

pcast assessment of ostp performance

Mr. Walsh. I am sure you are aware having been on the job now for a year that PCAST will assess your performance and your department's performance. But as cochair of PCAST, is that the most objective review? Is that the most objective way to get a review of the office's performance? Is there a better way?

Dr. Lane. I think there are always different ways of getting these jobs done, and the decision on using PCAST in this way was made in consultation with PCAST, recognizing that all of the PCAST people are nongovernmental, and I clearly need to distance myself from the evaluation, which I certainly have done and will do. But it is a way to bring people to the table with the integrity and, I believe, the credibility to perform an objective evaluation of an organization they are not a part of, even though, as you point out, there is a close connection.

I would be glad to ask one of my colleagues that works closely with the Results Act and evaluation process to give you more information.

Mr. Walsh. Maybe you can provide that in writing if you would like to expound on that.

Dr. Lane. We will provide the rationale.

Mr. Walsh. The justification for doing it that way and the pitfalls if there are any.

Mr. Walsh. Thank you.

Mr. Mollohan.

Mr. Mollohan. Thank you, Mr. Chairman.

information technology dissemination

In your opening statement and in your responses to questions of the Chairman, you talked about the importance of information technology, and there are lots of parts to that and different people related to it, senior scientists doing cutting edge research, and then you have people in the country that don't even know how to turn on a computer, a lot of them are in my age bracket, but I have learned how.

When you look at information and technology and how it benefits different segments of society, are there any groups, segments, that are being left out? Are you all focused on them? Is that an issue that you are dealing with? Is it a problem; and if so, how big a problem? Is there a government role to address it?

Dr. Lane. That is a very important issue, and we are very much focused on it, as was the PCAST advisory committee. They made a point to emphasize this, I think, guided by the President's comments on information and technology, namely whatever we do, we must avoid this divide. We must ensure that information technology, which is such a rapidly evolving technology, helps narrow this gap, not further widen it. And I think there is a potential danger here that it will work the other direction.

Mr. Mollohan. Which way is it going?

Dr. Lane. I would say that different data will tell you somewhat different answers, but in the area of home use of computers, for example, early on I think the data would suggest that it was spreading. But more recent analysis suggests that, in fact, it is coming down. The gap is narrowing both in terms of the home use of computers and, I think, also work force. We would be glad to send you whatever statistics we have on that.

The question is much larger than my answer, but the focus of this initiative--[in the social/economic side]--is why we have \$15 million invested. It is not enough just to make sure that e-commerce flowers and that some people make a huge amount of money, although that has always been an important thing in this country and will continue to be, but it is also to make sure that these technologies are friendly to people, that they are affordable and usable, that you don't have to become a computer programmer to use the computer.

In fact, the expectation is that computers as you know them will look very different in the near future. They will not be the same. They will be a part of everyone's life, and people will know how to use them and can afford them, and that they will provide benefits to all components of society.

Mr. Mollohan. But the marketplace is going to take care of that issue. Providers of hardware and software both are going to be highly incentivized to provide the most user-friendly apparatus.

Dr. Lane. As long as the research is done at the front end. For example, persons with disabilities, I would say that there is an area where it is important for research, such as the National Science Foundation is supporting, to ensure that the front end work gets done so then you have a capability that the private sector can pick up and market because I am not sure that the market itself is a large enough pull in an area like that. In the end the market will do it, but it is just important to have the front end work done.

Mr. Mollohan. What about economically and geographically, can you answer my question in those terms?

university involvement in information technology

Dr. Lane. Let me start back on the university side because one point that the committee emphasized was that in order to address the problems that the committee feels exist on fundamental long term research, you are going to need many, many research faculty in computer science and computer engineering, and those won't be housed in just the top 10 or 50 universities, you will have to grow that quality all across the country.

And as the universities strengthen and interact more with the local and regional communities to provide not only knowledge and courses, but also very real time help with the community problems, that is going to benefit everybody in the region.

Mr. Mollohan. So you are saying when local academic institutions begin relating in this area better to their own particular marketplaces, they will solve a lot of----

Dr. Lane. I think that is a general issue. You have been on

campuses, you know that universities, particularly some of our state universities, are reaching out much more effectively to the communities to provide more, like what used to be the idea of the land grant college concept, where it wasn't just a place where you went to take a course and get a degree, it was a core intellectual experience for the whole community.

Mr. Mollohan. Relating to the needs of the community?

Dr. Lane. My view is that is the future for colleges and universities as well.

Mr. Mollohan. Is there a problem that you have identified in particular groups, geographic groups or, as I say, socioeconomic groups? Is there a study even if you can't comment on it right now because you are not prepared to, is there a study looking at these kinds of issues?

Dr. Lane. Let us send you information on this. I think the one clear early one was just as the Internet spread out it didn't spread out in an equitable way because early on it was essentially an experimental device. So it went where computer scientists were able to work on it. Increasingly it has spread everywhere, and it is critically important to all communities that they have that connection.

Mr. Mollohan. There may not be a huge problem with that, but I would be interested in knowing.

Dr. Lane. We will send you information more broadly than the Internet.

energy technologies and the environment

Mr. Mollohan. The environment is one that we focus on. How are you--first of all, I really support the last topic that you reflected that you support here, environmental protection. I think that is a very important approach to all of the problems associated with these issues. But when you look at the issues of energy, availability of energy domestically, internationally, either its physical availability or its availability determined by the marketplace, what is cheap and what is expensive and how that affects other resources--availability of other resources, just tell me, what are you all thinking about? This is a subject area. How are you approaching that subject? Is it something that is a priority? How do you maintain cheap energy in this country, which is fundamentally important to our economy, and what do we have to do to achieve that goal?

Dr. Lane. It is a great concern and PCAST wrote a report on that and focused on the domestic side, and we responded to that report by putting research activities in place on the energy technologies, more efficient technologies, so that indeed we can keep the price down on energy. This is a very appropriate time to be thinking about that with OPEC's recent move to drive the price up.

Mr. Mollohan. It sure is.

Dr. Lane. One thing that we in our office can appropriately focus on is to ensure that investment in research is placed in the right agencies and at the right level, develop those ideas, those new technologies, that will then be picked up by industry in whatever way the market determines to be most efficient.

Mr. Mollohan. Just on that, picked up by industry, as you

all look at this, that is a real problem area because industry will pick technology up to the extent it serves their financial interests. That is the driving consideration. As long as they can keep old facilities going or retrofit them or as long as they can back one energy source, they are not going to implement a lot of the technology that you have supported and funded for many years. And obviously I am referring to coal technology and there is a lot of it out there to use that resource. The marketplace isn't favorable to that. I think we really need to look at how do you incentivize industry to use those technologies.

Dr. Lane. In the case of coal, coal is at a competitive disadvantage, but it is really natural gas that I think puts the pressure on coal.

Mr. Mollohan. It is what?

Dr. Lane. Natural gas and cheap oil. So one question is well, coal is a very valuable natural resource. We want to be sure that we are able as a nation to take advantage of that. We are clearly going to need all of our sources of energy downstream, so what technologies might there be to allow U.S. companies to make money on coal. And the Department of Energy has done a number of research projects that are focused precisely on that, new technologies to take advantage of coal; for example, the hybrid system, which is just new chemistry applied to coal that will enable the process to be done cheaper and enable the price to go down.

Mr. Mollohan. At this point in time it doesn't allow--if the process you are referring is the consumption of coal to generate electricity, it does allow that forward to be cheaper. That is an area that needs to be looked at. How do you commercialize that technology that already exists in a way that make it economically feasible? Just a comment, Mr. Chairman.

When you look at these questions of global climate change and ozone depletion, all of these things which I totally support, looking and studying the solutions, being able to--for the private sector to be able to economically implement the excellent research which has been done which has resulted in good solutions, right now I think is the challenge. I would like to follow up on that with you all after this hearing to see if you all agree or can identify what are the specific challenges to be addressed in order to get beyond this environmental/political stalemate or whatever you call it, stumbling block. How do we get this in a smart way and obviously you are looking into that.

partnerships

Dr. Lane. We will definitely follow up on that, Mr. Mollohan. The other thing that I would say is that I did use the word in industry ``pick it up,' ' but we really recognize that the way that happens most effectively is for the Federal Government to enter into partnerships with industry, and that is a tricky area that has to be done that doesn't favor one company over another and doesn't pick winners and losers, but that partnership gets everybody at the table. The private industry gets in and the Federal Government provides some funding to incentivize the whole process.

The partnership for the new generation of vehicles which I

mentioned to you earlier has really challenged the big three in the auto industry to push toward a quite extraordinary goal, an 80 mile per gallon car that is no more expensive and reduced emissions by two-thirds.

The partnership on housing and the PATH program, a similar kind of program, partnership with industry to provide some incentive for industry to build more efficient houses and find out how to do that.

Generally if everybody is working on that, industry suddenly finds out hey, this is competitive, I can make money doing this, whereas before I thought I was just going to have all of these barriers to overcome, and that is a place where the Federal Government can play a very important role in the partnership, and the same is true in the energy technology area, and we will be happy to provide you detailed information.

Mr. Sununu. Could I interrupt, I just have a quick question on that area.

Mr. Walsh. It is Mr. Frelinghuysen's turn.

Mr. Frelinghuysen. I would be happy to yield for 5 seconds. I am just kidding.

incentives for private industry

Mr. Sununu. That point you talked about giving the housing industry incentives to develop greater energy efficiencies in their constructions, and I am sure it is not what you meant, but that suggests that those in the housing industry are not intelligent enough to look at energy savings over time and with a spreadsheet calculate the present value and go out and market those innovations.

If there is any industry that is mature enough to understand the value of incremental improvements in technology, it is the housing and energy industry. And you preceded that by not picking winners or losers and not subsidizing industries, and I think those two are really at odds.

Dr. Lane. I think one company should not be favored over another company. The housing industry is very mature and successful, and many of us live in wonderful houses so I have no negative feelings about the housing industry.

But if you are really going to push the edge of the technology, then you are going to push against some market forces. And on that margin there will be judgments made. So all I would suggest here is that I think at that stage, on those margins, there is a role the Federal Government can play.

Interagency cooperation

Mr. Frelinghuysen. Taking back my time, you live in the biggest glass house of all, the White House, that is where you work these days, for the White House.

In the 1960s people usually beat up on what was called the military industrial complex. Would you say today that we have a science and technology counterpart to the military industrial complex?

It seems to me we have a massive Federal effort which you have beautifully outlined in your opening statement and obviously you headed up the National Science Foundation and

worked there with such distinction, but now you are at the White House. You are, I suppose, the first among equals by being the President's main science adviser, but you have the job basically of, if you pardon the expression, cracking heads and making sure that the President's objectives are fulfilled and that the various agencies are working together. Is that a proper characterization of your responsibility?

Dr. Lane. I have never described it quite that way, but yes, I certainly have the role in the White House of advising the President on all aspects having to do with science and technology, and that certainly means everything having to do with any of the agencies which support science and technology.

Mr. Frelinghuysen. When I use the term science and technology complex, do you find any feeling that we have created within our Federal Government for a lot of good purposes a massive amount of work in DOE, FDA, NASA, and we all know that it is Federal money that goes into that Federal basic research, but have we created some new complex for the future? I am saying that it is a beneficial one, and from the fact that we serve in this Congress I guess we have aided and abetted this growth and development because obviously support has been bipartisan for this type of work, but we have created something here.

Dr. Lane. Yes, we have indeed created it.

Mr. Frelinghuysen. You can describe it anyway that you want. I am not looking for you to throw me a line.

S&T Enterprise

Dr. Lane. We have created a science and technology enterprise second to none in the world. We have done it, though, with an investment that is only a fraction of the gross domestic product, which in my view is not the greatest in the world. So we are somehow--in some ways more efficient with our investment than some other nations are. I think we get more out of it than many nations in the world do. So I call it an enterprise.

The only reason that I have to be thoughtful about the complex, to some that has a negative connotation, where it was sort of a deal between the private sector and the Federal Government.

Mr. Frelinghuysen. You are very much encouraging partnerships?

Dr. Lane. Absolutely. But the kind of partnerships that I am encouraging are real partnerships where you are working with industry and you agree to do certain things and the Federal Government agrees to do certain things. And if performance is not there, all deals are off. I believe partnerships mean mutual benefits and mutual responsibilities, and I think some people felt in the old complex it had gotten a little stale in that way.

I certainly agree, we have this enterprise. It is the strongest in the world. I believe it is in many ways at the core of what the Federal Government ought to be doing in this country, so I am very pleased that we are strong in that area and of course appreciate the bipartisan support.

interagency leadership

Mr. Frelinghuysen. You have been at this job for a year and in your prepared statement I quote on page 8, ``Our distributed system of research funding also places a premium on coordination between complementary agency programs,' and it goes on. How do you deal with the autonomy issues? This is my comment that you are the first among equals. You have somebody like Harold Varmus, you have somebody like Dan Goldin. These are people who exist in their own sphere of influence and galaxy. How does your agency work with all of these luminaries and keep them focused? Not necessarily containing their excitement about their work but actually keeping them focused?

Dr. Lane. These are extraordinary people. We are very fortunate to have people running the agencies and the science and technology part of the agency that we have right now, and that has been true since I have been in town. I have really appreciated the people that I have had a chance to work with, and that is true this very day.

They all have their own views about things. They all have their own special responsibilities. When I ask them to work together on something, they have done it. And the Information Technology Initiative is a great example. I mean, it was an opportunity for six agencies to come together. I formed a committee of principals, science and technology principals, to help me work on this. When I called a meeting, they came. Harold Varmus was there, Dan Goldin was there. Rita Colwell was there and Gansler was there. So when I need their help, I ask for it and they have provided it. They have provided the cooperation and given of their time to get it done.

interagency coordination

Mr. Frelinghuysen. But what do you look at, though? In other words, how does OSTP go about evaluating programs of the departments? If you lift the tent on national laboratories, and I serve on the Energy and Water Committee, and you visit and they obviously showcase when you go there, their main responsibilities in terms of the nuclear stockpile, but if you lift the tent, they are also doing a lot of other things which I assume bear some relation to the National Science Foundation. Everyone appears to have a little piece of the human genome project. It is not just Dr. Collins at the National Institutes of Health, everybody seems to have a piece of that. And I just wonder whether--are there certain areas where you have access and other areas where you have learned to perhaps proceed with caution?

Dr. Lane. Mr. Frelinghuysen, I always try to proceed with caution, but let me try to answer your question. We have a quite complex enterprise that we are talking about and there is a lot going on, and within each agency, a lot of different agencies, some of which relate closely to activities in other agencies. So the points you are making are very important ones and they make it difficult sometimes to explain what it is--why are these agencies doing these things, and so let me pick an example or two.

One is, let us just say that the Department of Energy and the National Science Foundation, the Department of Energy I

think by statute has a responsibility in high energy physics facilities and so they operate from the national laboratories, the one at Brookhaven, as you well know, and other facilities. They do that very well. They also support university scientists to work there, and NSF supports university scientists to work there.

The two agencies' program offices work quite closely together so they know that they are not doubling up. They know that they are not giving money to the same person for the same job. That is coordinated at the agency level and I think quite well. But it is a good partnership.

Mr. Frelinghuysen. So you are satisfied with what you have been able to review?

Dr. Lane. What I am able to review indeed.

Mr. Frelinghuysen. You have PCAST and the National Science and Technology Council. One assumes that coordination, while there may be some need for duplication, that somebody--you are in the driver's seat to oversee some of it.

Dr. Lane. And you have to look underneath, the words that describe the programs are never enough to describe what is going on underneath so you have to know at the program level what is going on and part of the experience that I am relaying to you is on the NSF side because I was in there.

russian space program

Mr. Frelinghuysen. Can I change gears. Do you have a Russian counterpart?

Dr. Lane. The person that I always meet with; for example, in this recent Gore-Primakov Commission activity, my counterpart is the minister of science and technology.

Mr. Frelinghuysen. The public perception is that Russia is sort of disassembling. There is no leadership but certainly we heard yesterday that the space program continues to work.

Dr. Lane. Absolutely.

Mr. Frelinghuysen. Do you have any opinion relative to the fact that you have 70,000 nuclear scientists, a good portion of which are out of work, do you have people with the space program that some days it is up, some days it is literally down. Dan Goldin said there are tens of thousands of people highly qualified out there that are--either working for barter or working in some capacity for nothing.

Do you have any view of what is going on with some of Russia's brain power and how it potentially might affect our strategies?

Dr. Lane. It is extremely important to the country, to our own national interests that those scientists in Russia are busy doing research and are not tempted to be pulled away by other nations who will work on military needs of nations that are not friendly to this country, and I think the space effort is a really good example.

Our cooperation with Russia on space implies two things. One, we accessed technology, it is extraordinary in space. I mean the Russian space scientists and engineers are really outstanding. And I know Dan Goldin has made that point several times. So we have accessed those people.

We also had access to the MIR space station. We got many

hours of experience that our astronauts on that station otherwise would not have. But maybe more important than both of those things is keeping tens of thousands, many tens of thousands of rocket scientists at work doing what they like to do and for peaceful purposes. So I think that has been extraordinarily successful.

Mr. Frelinghuysen. I thank you for your response, because the chairman chaired a meeting yesterday and you are confirming what we heard from Mr. Goldin. Without your knowing that I had talked with him yesterday actually shows that you are definitely on top and in fine form per usual.

Dr. Lane. Thank you very much. Thank you, sir.

Mr. Frelinghuysen. Thank you, Mr. Chairman.

Mr. Walsh. Mr. Sununu.

Mr. Sununu. Thank you, Mr. Chairman. Welcome.

Dr. Lane. Thank you, sir.

basic science

Mr. Sununu. I would like to revisit some of the issues I raised in my earlier comment. But perhaps you can begin by providing a description for what you see as the difference between a commitment to fundamental research in areas that I think ought to be weighted towards basic sciences and subsidy, the subsidy of technologies or industries that are not just mature, but that have real, very existing financial incentive to undertake research activities on new products or new ideas in and of themselves. At what point does the investment in basic science become an effective distortion of the market forces that I hope everyone in this room puts a lot of faith in?

Dr. Lane. Well, I fully agree with you, Mr. Sununu, that that distinction needs to be made. It is a judgment call, and is an important one for our system and which works extraordinarily well, makes us the world leaders.

Mr. Sununu. And very specifically, you are being asked to make that judgment on behalf of the President?

Dr. Lane. Absolutely correct, and my view on that is that when the Federal Government enters into partnership with industry, there are several criteria that need to be satisfied in order for that to happen. I think the potential usefulness, if you like, of that knowledge or those technologies needs to be long term so that there is a reason why that industry or that sector has not spontaneously decided to invest its own money in the same research.

Mr. Sununu. The benefits need to be long term or the payback period needs to be long term?

investments in research and development

Dr. Lane. Well, of course, there are many kinds of benefits, educational benefits and side benefits. If the payback is quick--you can start it around the other way, if the payback is quick, if you can predict that is the case, we predict that the payback is quick, then I think these companies are very smart, these industries are very smart. As you pointed out, I think they will do it.

They will say, hey, that is a good investment, I am going to invest in that technology or that product. Now, sometimes our predictions are wrong. You know, sometimes we think that you won't be able to get a quick payback and, surprise, you do. And you can also find the other way. That is why venture capitalism in my view is a tough issue, a tough profession to be in. So I think it is not always easy to guess right, but I believe once you keep a focus on that issue----

Mr. Sununu. You are saying that the factor--the primary concern is payback period and how long or short it is and where do you draw the line? Is it 10 years, 15 years, 5 years, 2 years? When is it basic science and when is it industry subsidy?

Dr. Lane. It is going to depend on the kind of industry, on the sector you are talking about. Those periods are different for different industries.

Mr. Sununu. So if I am in, say, the electronics industry, the government is going to draw a line at 8 years, but if I am in the energy industry, then I can get a subsidy for research that only has a payback period of 4 years?

Dr. Lane. Well, I won't----

Mr. Sununu. That would seem to be playing off one industry to another. Money is fungible, return is return. And if you are drawing a line of a payback period of 4 years for one industry and 8 years for another industry, you are doing exactly what you said you shouldn't be doing.

Dr. Lane. There is another issue also. It may well be that the investment in the R&D is so expensive that no industry or no company on its own is going to do that or no sector on its own is going to do that. I think we got into trouble in the semiconductor industry. Just to give an example, there was a case some years ago, it wasn't this administration, a previous administration, right, where government--industry came to government said, hey, we got a real problem here.

So we are not really coming to you one company at a time. We are coming to you as one sector, talking about the U.S. position on leadership in this area. And these companies came together, put their own money in, government put its money in and eventually as, you know, they kicked the government out, the appropriate thing to do probably. They said we would handle this on our own. But I think that was a good--a very good policy at the time and it put us in the----

Mr. Sununu. What is a good policy?

Dr. Lane. It was a good policy for the sector of industry and for the government to work together on behalf of a challenge to U.S. leadership in an important area of technology.

technology investments

Mr. Sununu. Well, sticking with that example, that was a case where industry and many outside of industry were making an argument that American economic and technological leadership was going to be determined effective, if not determined by our strength in the static memory business. This was all about theories on static memory. And that is why Semiconductor was formed, and you probably know better than I, but my guess is in

the end the Feds poured about \$500 million in the project before they pulled the plug so to speak.

Where is that industry today? Where is our prominence on our leadership in that industry today? Well, we really didn't have one. But there is an economic reason for not having a leadership position in that industry, because it is not a very pretty industry to be in, because anybody with the money to put the basic capital investment and access to fairly inexpensive labor can pump out static memory like there is no tomorrow. The margins are very small. In fact, the static memory is quoted as a commodity on a lot of exchanges in the world right now. So in fact, I would disagree. It wasn't a good coming together--I mean it is nice when people can come together and recognize that there might be a problem, but I don't think the program was necessarily a success, and I think in hindsight the arguments that were made about this particular industry being key to our technological future was completely wrong.

Dr. Lane. Well, we could--it is always complex to know where the technological breakthroughs come from that cause swings in competitive markets--in a given situation. It would be hard for me to argue, and I would not do so without the confidence of my comments, that much of the research that went on during that period has led and did lead, in fact, to some of those breakthroughs that has changed the whole nature of technology in that industry. The other thing that happened----

Mr. Sununu. The breakthroughs that led to the dominant firms being in Asia?

Dr. Lane. I mean the issue of who is able to maximize the profits from a particular technology is a larger one than the R&D effort, and you know much more about that than I do. It has got to do with capital and it has got to do with market forces of various kinds. So all I am arguing is that at the front end, where the work is clearly basic, where I think we have no disagreement on that, where the work is clearly fundamental, clearly basic, where one really can't see where or if the knowledge will be particularly useful to one or another industry, the Federal Government has a role.

I think where we may not agree is just at what stage in our partnership with industry that would cross over the line, and I think that is a debatable issue.

Mr. Sununu. It is a debatable issue; is that what you said?

Dr. Lane. Of course, yes, it is debatable.

Mr. Sununu. Both issues are debatable, one maybe we just have a little bit more agreement than another.

Dr. Lane. Okay.

federal investment

Mr. Sununu. And this brings at least me to my perspective in that those industries where you can make an economic argument for the payback, for the return, for the reward, are precisely those ventures that we ought to stay away from. If the chip manufacturers come to the U.S. Government and make an argument for investment in return in strategic position on the basis of profits or earnings, those are precisely the situations that we ought to avoid.

High definition television, another good example. Ten years

ago the industry came to the U.S. Government and was looking for a very, very significant subsidy for the development of a high definition television standard, and they were up front that it would probably be somewhere between 5- and \$20 billion of taxpayer commitment to develop high definition television. And they tried to justify that subsidy on the basis of the market that we all knew and understood and that here is how many TV sets are going to be sold, here is the growth of the industry.

They had wonderful spreadsheets that showed the return, and this was a case where the government got it right. They said, no, we will undertake a process where we determine from a regulatory perspective what kind of a standard makes sense, but we are not going to put any money in the development of the technology. We did the right thing.

The analogy in the global scene is Japan. They spend \$20 billion or so, give or take, developing high definition television technology, Federal money, taxpayer money, and it is grossly inferior to the current state of the art. And unfortunately, I mean, even these kind of economic models aren't predictable and the inception of HDTV has been delayed somewhat, but I think most people think it will come.

My point is that the powerful emotional argument about return is oftentimes the argument that we need to avoid.

Dr. Lane. Mr. Sununu, I am sorry, may I comment or were you going to shift gears?

Mr. Sununu. You are welcome to comment on HDTV or on that differentiation.

Dr. Lane. Let me just mention I am reminded that the advanced optical lithographic technology came out of this research effort that I described earlier. And our current thinking about the future is, you know, what kind of technology are we going to have in the post-optic era, and research is going on in that area as well. I would not want my comments to be interpreted in any way to think that somehow we don't have healthy industries or those are not being run by outstanding people or even though there are indeed operations that are not impressive and effective. I think they are.

But the world of business has changed to such an extent that these companies have felt the need to narrow their focus to shorter term horizon, shorter-time time horizons and they are simply not doing the research that those companies were doing 20 years ago. That is my primary message. We don't have the Bell Labs research program like we had before. We don't have IBM research lab doing those kinds of cutting edge, long-term research projects that they did in the early days. And I think for reasons that we understand. The Federal Government needs to fill that role.

federal subsidy in information technology

Mr. Sununu. In the area of basic research and the work that the NSF does and the work that the NIH does, I would agree. Let me close by asking you to talk about one final example, and it is, I think, an example that is the successor to the first two that I gave and there are others, in that those that are advocating the subsidy are using the excitement of the market

opportunity, of the market growth that we are seeing today, and perhaps an emotional argument that somehow because this is a growing and future industry that it is going to be somehow central to our economic security in the future.

And it may be important to that, but they are using that as an argument for Federal subsidy, and that is in the area of information technology. I don't know what is in here for, say, next generation Internet or information technology, 70 million in DOD, and I am sure NSF has a piece of it. You would know better than I.

But if there is any industry that is healthy, that is growing, where there is strong market forces at work to encourage continued innovation, continued improvement in technology, it is in information technology and you said, well, we don't have Bell Labs anymore, we don't have IBM. But we do have Cisco and 3-Com and Cabletron and Oracle and Microsoft and America On Line that is constantly out there as an industry communicating with customers and finding out what new advantage they need to implement on a technological basis to take advantage of their competitors, to beat their competitors.

And to use the excitement or the lure of that growing industry as a justification to sort of join the fray or, in the worst case, shape the technological development, I think is a mistake. And I guess I am looking for you to respond with an argument as, well, what is it that is so special about the government that we are going to be able to identify the key to the next incremental technology that might be used to increase switching speeds or network security or Internet commerce?

Dr. Lane. I think we aren't going to do that. I think we shouldn't. I agree with your last comment, that is not what we are about. Let's just sort of go down a level in detail in the initiative, just so I can give a few examples. I don't want to use too much time, but I would like to talk about this a little bit.

What NSF is going to support is research in computer science, computer engineering, questions that have to do with what about 20 years down the road when these kinds of ways we have been used to computing are not going to do the job any more, what is a whole new way of thinking about computing? Quantum computing or using DNA computers. The company is not going to support that kind of research. And I think one can understand why not.

DARPA will support those kinds of research activities as well for their own mission needs and because they know how to pick through peer review process the best people with the best ideas, but nothing to do with market or nothing to do with industry; just what our scientists think of the most exciting, intellectually exciting and most important research questions.

That is where most of the money, that is where two-thirds of the money in this initiative goes, is for that kind of research that I just described. The \$70 million to DOE is primarily to buy big machines from industry so that scientists and engineers can do research problems on it, maybe a fundamental research problem having to do with combustion or atmospheric or ocean sciences or something along those lines.

The \$15 million that goes for social, economic work force issues, that will go to support researchers and university

campuses, economists, sociologists, and education researchers to study some of these larger questions.

Mr. Walsh. John, if I could just point out, we are over 15 minutes, we have held everybody up pretty much to 15 minutes.

Mr. Sununu. Sorry.

Mr. Walsh. Mrs. Meek has a lot of patience this morning. I would like to go to her.

computing versus information technology

Mr. Sununu. On DOE point, if DOE is using the machines for computing, why do you call it information technology, why not call it computing, you know, modeling, technology modeling?

Dr. Lane. I would be happy to call it computing. Another way I think to address your question is say why is it a part of this initiative, and the reason is because we are going to buy the best of currently available technology. These big machines, are rather like those being used for the stockpile stewardship program, but these will be used for civilian purposes. And we are going to put scientists on them, but we really don't know how well those machines are going to deal with their problems.

And so computer scientists need to be involved in that process. They need to see you, an oceanographer, trying to put your problem on these big machines and what is not working, what new system needs to be worked out. That is the reason that it is part of the initiative. We need to articulate it more clearly.

Mr. Sununu. Thank you for your generosity, Mr. Chairman.

Mr. Walsh. Mrs. Meek.

national laboratories

Mrs. Meek. Thank you, Mr. Chairman. I am out of time, but I am very pleased to see you again, Mr. Lane. Since my time on this committee there has been a lot of concern about the national labs in terms of many times the lack of coordination between what they are doing and what other agencies are doing.

You have a terrific job trying to coordinate and shuffle all of these cabinet agencies and all of these agencies. You are saying you have some degree of administration over them. How well is that coordination working? I know that is one of your major goals, but it is very difficult to do that. So would you speak on that point and, quickly, sort of a score card on the national labs.

Dr. Lane. Yes, Mrs. Meek. I am delighted being with you today as well. I enjoyed working with you and continue to enjoy our close working relationship. On the national labs, I would say medium. I don't know how to grade it exactly. This is a very tough issue. It is sometimes difficult even for the agency itself to coordinate the work of all of its laboratories, because of the complexity, the diversity of activities going on in those laboratories.

We work with the laboratories, say the Department of Energy, we work with the laboratories and with the whole department in a variety of different ways primarily through the National Science and Technology Council which, through its coordinating committees, brings people from government together

to work on issues like global climate change and the traditional disciplines.

So I think that the process is a good one. We have to focus our efforts in places where that plays particularly across agency lines, as I described earlier. I think we are doing a pretty good job of that. There is, of course, a report I think under review right now on the national labs. Maybe I can get a status report on where that is. It will come out in 2 weeks. That I think is the report that you are asking about.

Mrs. Meek. Thank you. Thank you.

Dr. Lane. Thank you.

Mrs. Meek. Mr. Chairman, I know the time is gone. So I wouldn't ask my last question.

Mr. Walsh. Feel free to go ahead and ask the question.

women and minorities in ostp

Mrs. Meek. As usual, Mr. Lane, I will continue to press for inclusion of women and minorities in your shop. And each time you come before us, I talk about that and ask about that. I hope you will continue your pursuit of that. You are a little bit better than you were the last time when you came in terms of women, I see.

I don't see any African Americans, but I see other minorities in here. So I am just as pleased hoping that you will continue your pursuit of this kind of balance in your programs.

Dr. Lane. Thank you, Mrs. Meek. We don't have all of our staff here.

Mrs. Meek. I mean your senior staff.

Dr. Lane. I understand. We will continue to keep a strong focus on this. My comments earlier in the hearing, I think of those things very sincerely. I think the whole future of science and technology in this country is largely going to be determined by our ability to improve the representation of all of our citizens.

Mrs. Meek. In fact, this country's demographics is changing. And you must be able to keep up with some of these needs of these various people that we have in our population.

Dr. Lane. Thank you, Mrs. Meek.

Mrs. Meek. Thank you.

Conclusion

Mr. Walsh. Well, thank you, Dr. Lane. I think we will conclude there. And if anyone has any additional questions, we will include them in the record.

Dr. Lane. I would be happy to answer them.

Mr. Walsh. And we thank you for your attendance today and your thoughtful responses to our questions.

Dr. Lane. Thank you. We enjoyed being here today. Thank you very much.

Mr. Walsh. We will have a brief recess, and then we will come back and we will hear testimony from the Department of Defense, Civil Cemeterial expenses, U.S. Army.

[Recess.]

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Wednesday, March 24, 1999.

DEPARTMENT OF THE ARMY (CIVIL WORKS), CEMETERIAL EXPENSES, U.S. ARMY

WITNESSES

DR. JOSEPH W. WESTPHAL, ASSISTANT SECRETARY OF THE ARMY (CIVIL WORKS)
LINDA HICKLIN, ACTING DEPUTY ASSISTANT SECRETARY (MANAGEMENT AND BUDGET
JOHN C. METZLER, JR., SUPERINTENDENT, ARLINGTON NATIONAL CEMETERY
RORY D. SMITH, BUDGET OFFICER, ARLINGTON NATIONAL CEMETERY

cemeterial expenses, army

Mr. Walsh. All right. The subcommittee is still in order. We just had a brief recess, and now we will proceed with the Department of the Army--Department of Defense, Civil Cemeterial Expenses, U.S. Army. The expenses associated with the operation and maintenance of both Arlington National Cemetery and the U.S. Soldiers' and Airmen's Home National Cemeteries. This year's request of \$12,473,000 represents an increase of \$807,000 above 1999 level.

Testifying before us this morning will be Assistant Secretary of the Army for Civil Works, Dr. Joseph Westphal. Welcome, Dr. Westphal. I believe this is your first visit before this committee, and we certainly wish to welcome you and your staff.

Mr. Westphal. Thank you, Mr. Chairman.

Mr. Walsh. Following any remarks our ranking member Mr. Mollohan may wish to make, I will ask you to introduce those who are accompanying you this morning, and then summarize your opening statements as best you can. And your written statement will be fully included in the record.

Mr. Mollohan.

[The statement of Mr. Westphal follows:]

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Mr. Mollohan. Thank you, Mr. Chairman. I would like to join you in welcoming Dr. Westphal to the committee.

Summary Statement

Mr. Walsh. Okay. Dr. Westphal, please proceed.

Mr. Westphal. Thank you, Mr. Chairman. Thank you, Congressman Mollohan and Congresswoman Meek. We are delighted to be here. This is my first testimony before your subcommittee, Mr. Chairman, on Arlington, and so I am very glad to be here. I will make very quick summary remarks.

With me is Mr. Jack Metzler, who is the Superintendent of Arlington National Cemetery and behind me I have my Acting Deputy Assistant Secretary for Management and Budget, and my Assistant for Management and Budget Linda Hicklin, and over here to the right is Rory Smith, who is the budget officer for

the cemetery. So we have plenty of technical people if you have any specific questions.

Mr. Walsh. Great.

Mr. Westphal. I will do a very quick summary, Mr. Chairman. Arlington, of course, is the Nation's premier military cemetery, and it is really an honor for me to represent the Secretary here in his mission as having the lead responsible for the operation and maintenance of Arlington National Cemetery and the Soldiers' and Airmen's Home National Cemetery.

The request this year, as you stated, is \$12,473,000. It is an increase of \$807 thousand over fiscal year 1999 appropriations. The budget includes a number of things, and let me just outline them first. The budget includes \$60,000 for continuation of the preparation of a concept land utilization plan for lands contiguous to Arlington National Cemetery under the jurisdiction of the Department of Defense. This is part of the President's strategy of ensuring that the cemetery remains open to initial burials through the end of the 21st century.

Second, Mr. Chairman, \$200,000 is included to develop a comprehensive automation plan for the cemetery.

Third, \$150,000 is budgeted to develop a 10-year capital investment plan.

And fourth, \$300,000 continues an initiative started in fiscal year 1996 to expand contracts for enhancing the appearance of the cemetery, while reducing the overall cost and number of government employees as part of governmentwide streamlining.

In fiscal year 1998, there were 5,638 interments and inurnments at Arlington. In fiscal year 2000, we expect over 5,800. In addition, thousand of visitors, both foreign and American, visit Arlington to participate in a number of events every year. During fiscal year 1998 about 2,700 ceremonies were conducted and the cemetery accommodated approximately 4 million visitors, making Arlington one of the most visited historic sites in the national capital region.

The funds included in the fiscal year 2000 budget are necessary to permit the Department of the Army to continue the high standards at Arlington National Cemetery.

With that, Mr. Chairman, that is a very brief summary of my statement, and we are ready to address any questions that you or the committee may have. Thank you.

expanding arlington national cemetery

Mr. Walsh. Thank you very much. In last year's budget, you asked for and received \$500,000 for preparation of utilization plan for expanding Arlington National Cemetery and contiguous Department of Defense land. As I recall, your plans included the thorough review of four possible expansion areas.

While I recognize those funds only became available last October, I noticed no mention of this expansion plan in this year's budget submission. Can you give us an update of where you are in developing the plan, including any comments you may have on the viability of access--of getting access to any of the four possible areas?

Mr. Westphal. Okay. Mr. Chairman, we expect to have the study on expansion possibilities completed at the end of this

year, and we are also doing an assessment.

Mr. Walsh. Fiscal year or calendar year.

Mr. Westphal. Calendar year.

Mr. Walsh. The end of '99?

Mr. Westphal. Right. That is correct, isn't it?

Mr. Metzler. That is correct.

Mr. Westphal. And we are also doing a study on basically assessing the master plan. This is a requirement that the DOD, I believe the DOD authorization committee made that we do an assessment of our master plan to be reported to the Congress in April of this year, and we have that under way. We hope to have that completed by the end of April and turn that over to the Congress at that time. And we will make sure you get copies of that as well.

That gets into an assessment of what the master plan called for and what in fact we are doing. And it will have, I am sure, some assessment of the expansion issues.

size of expansion sites

Mr. Walsh. How large are these sites, acreagewise, these four sites?

Mr. Westphal. Let me ask Jack. Talk about that a little bit.

Mr. Metzler. They vary in size, but 30 acres is about the largest site.

Mr. Walsh. Are these all adjacent to the cemetery?

Mr. Metzler. Yes, they are. The lands that we are looking at right now, the primary piece of land that we are looking at is the Navy Annex property, which is a little over 30 acres. The property on Fort Myer which adjoins the cemetery boundary wall, and then there is a piece of property inside the cemetery referred to as section 29. That belongs to Department of Interior. That is a 24-acre site.

There is some historical challenges with that particular site. So we are trying to overcome those right now. And then we have some smaller parcels that go beyond that boundary. But those are the three principal sites that we are looking at right now.

grave site yield

Mr. Walsh. What grave sites would that add?

Mr. Metzler. Well, it is difficult to answer that question. One of the things this concept land utilization plan is doing right now is taking that very question and answering it. But on average, we yield about 600 to 800 graves per acre when you develop a parcel of land. If we take the 30 acres, as an example, for the Navy Annex, all 30 acres may not be usable for grave sites, so we will have to subtract to get to that net value of land.

acquisition possibilities

Mr. Walsh. Do you expect that you will be able to acquire all four sites?

Mr. Metzler. Well, there are some challenges with that.

Right now, for instance, the Navy Annex property, it doesn't require legislation. It can be done internally, inside the Department of Defense. There are some long-range plans for that property that we are still looking at and evaluating, along with the Department of Defense. And as we go through the process, we will be able to answer that question a little bit better.

Mr. Westphal. The Navy Annex was, you know, was being used, is being used to some extent as swing space as we renovate the Pentagon, to move some folks out, put them in the Navy Annex while we do the renovation. But I think we resolved some of the issues internally within the department as to the ability of us to get a piece of that for Arlington.

projected closure

Mr. Walsh. As of September '98, it was projected that you would run out of burial space by the year 2025. How many years will these additions add to that?

Mr. Metzler. If we were to get all of the initiatives that we are currently looking at right now, we estimate that we could at least go another 50, possibly 75 years beyond that point. But that is getting all the pieces of property. And, of course, one of the changes that has happened right now are more and more veterans are choosing cremation. So some of this will incorporate columbarium or niche space, not just open grave space.

cost to develop

Mr. Walsh. Lastly, what are the costs you would expect to be associated with these acquisitions, destruction and removal of old buildings and that sort of cleanups?

Mr. Metzler. Mr. Chairman, I don't have an answer to that right now. I think that is part of what this study will tell us.

Mr. Walsh. When will that be completed?

Mr. Metzler. The initial phase of the study we hope to have done by the end of April, and then the full report done by the end of the calendar year.

Mr. Walsh. Thank you.

Mr. Mollohan.

accuracy of press reports

Mr. Mollohan. Thank you, Mr. Chairman.

Doctor, recent press reports have cited examples of families having to wait pretty inordinate amounts of times for burials at the cemetery. Are those reports accurate? Can you comment on them, please?

Mr. Westphal. Jack, I have not heard of any.

Mr. Metzler. I would certainly like to comment on that, because I have been very involved in these issues. The reports are not accurate. We can do burials as quickly as the family would like them. The challenge that we have is on the military honors that are associated with them, the military honors often require us to wait an additional time, because the military

have other obligations or commitments in the national capital region that take them away from Arlington National Cemetery.

So the ability to do the funeral is easy. The ability to do the funeral with all the military honors becomes a challenge.

Mr. Mollohan. Who is responsible for providing military honors?

Mr. Metzler. Each branch of service is responsible for providing their military resources at each service. The challenge has really been with scheduling smaller branches of service, the Air Force and the Navy, as they don't have nearly the size of the ceremonial troops that the Army has as an example. We rarely have a problem with the Army at all. It is the small branches of the service that have other commitments that take them out of the cemetery.

Mr. Mollohan. Some of the examples cited suggested that upwards of 3 weeks would elapse between a death and an interment.

Mr. Metzler. That is an extreme example. That may happen. But again it is not that we can't do the burial, it is just that we can't provide all the amenities with that service to the family that was asking for a chapel service, a full honor funeral that the service member is entitled, which would include the band and the marching troops within that branch of service.

percentage of delays

Mr. Mollohan. With what percentage of internments are these delays occurring?

Mr. Metzler. I would think the percentage is very small. You are looking at probably less than 5 percent of that type of example that you are asking for. Most of our funerals we are able to accommodate within 5 working days of when we get the initial request.

Mr. Mollohan. With an honor guard?

Mr. Metzler. With the honor guard, with the firing party, casket team, bugler, yes.

Mr. Westphal. We are actually--we are actually having some discussions internally about this as we are trying to find ways in which we can expand a number of honor guards and ceremonial functions, spread them out. And there has even been talk of perhaps using, when we really are in dire need using the Reserves and the Guard for others.

Mr. Mollohan. As far as your responsibilities are concerned, do you have the personnel and the equipment, the tools to perform them?

Mr. Metzler. We have everything we need at Arlington National Cemetery. The challenge sometimes comes when the military resources are being used elsewhere.

web site access

Mr. Mollohan. Real quick question about Internet access. I understand that if you try to access a web site for Arlington National Cemetery, you can't do it. If you access Arlington Cemetery, you can do it but it is not maintained by the government; is that correct?

Mr. Metzler. We do not have a Web site yet for Arlington

National Cemetery. We are a part of the Web site for the Military District of Washington, and within their Web site we have all the information on Arlington National Cemetery.

Mr. Mollohan. Are you familiar with the Arlington Cemetery Web site?

Mr. Metzler. I am familiar--there is several out there by private citizens who are doing that. Yes. We are getting ready to have a new initiative with the Veterans Administration called BOSS, Burial Operations Support System. We are in the process right now of getting wired to that system. Once that system is wired, then that will give us the ability to have a Web page and have our own information put on that.

government disclaimers

Mr. Mollohan. I imagine it might cause some confusion, people accessing that site and thinking it is the official government site and the information provided is official. Are you familiar with the site?

Mr. Metzler. I am familiar with the site, yes.

Mr. Mollohan. Are there disclaimers that state it is not a government site?

Mr. Metzler. I don't believe I have seen those. But I do see that the individual does claim he's a private citizen.

Mr. Walsh. Would you yield to that?

Mr. Mollohan. Certainly.

Mr. Walsh. What is the Web site address?

Mr. Mollohan. The address I don't know. But the Arlington Cemetery, if you log on to the site, it is designated Arlington Cemetery. Do we have that?

Mr. Walsh. Do you have a license for that Arlington Cemetery.com?

Mr. Mollohan. Arlington Cemetery.com.

Mr. Walsh. This is the private one.

Mr. Mollohan. Yes.

Mr. Walsh. That is interesting that someone would grab that.

Mr. Metzler. It is not our official Web site, no. This is just a private citizen who has taken this on as an interest.

Mr. Mollohan. I think there may be some confusion.

Thank you, Mr. Chairman.

Mr. Walsh. Mrs. Meek.

master plan

Mrs. Meek. Thank you. Welcome, Dr. Westphal, to your new position and thank you for coming back. I think you are performing a very essential service that we should not overlook as a committee. My constituents and most of them throughout the country feel very strongly about cemetery services and what you do. So it is very, very important to our committee.

I think last year, when you came before us, you mentioned your master plan---

Mr. Metzler. Yes, ma'am.

Mrs. Meek [continuing]. The cemetery master plan. My question is how well is it performing and how well do your priorities for this year fit into your master plan? Do you see

it moving as you expected it to do when you put that before us?

Mr. Westphal. Well, in the master plan, it identified 5 major challenges, among many others, but 5 major challenges that the cemetery had, and interment capacity was at the top of the list, visitor accommodation, with dignity, so on and so forth at the cemetery, operation and maintenance of an aging and somewhat deteriorating infrastructure within the cemetery, the preservation of special features preserving the aesthetics, preserving the cultural and historic features of the cemetery, and the capital requirements, identifying the capital needs of the cemetery.

So those 5 areas are what the master plan identified as major challenges. I believe that the budgeting that we are proposing to you addresses all of those. We are certainly trying to make great advancements in terms of interment capacity or expansion plans, and we are working very hard. I think the superintendent has done a great job of assuring that these other 4 areas get strong attention.

I think our O&M budget is stronger, and we are doing a very good job of keeping up with the other high priorities.

work descriptions

Mrs. Meek. Describe your work for us, for me. What is some of the titles of people who work for you?

Mr. Metzler. In the cemetery right now, our work force is divided up into five divisions. We have an administrative division, which you typically have your clerks, your cemetery representatives, people answering the telephones, helping the general public, and you have those who take the funerals out one by one to the various locations to conduct the cemetery services.

Our field operations division is our largest division, and there we have mainly blue color workers who are doing the actual excavation of the graves, setting up the graves, putting up tents, chairs, grave works, as well as preparing the site before the service and then after the service closing the site up, reinstalling the systems and removing it after the service.

They also work at the Columbarium doing the same type of work. Instead of excavating graves, they are taking the niche covers down and then closing the covers back up. And then also within that group we have a ceremonial unit that prepares for our over 2700 ceremonies that we have each year. We will clean the entire amphitheater site and the grave site, and the flowers, keeping the area presentable to visitation, because we have so many thousands of visitors coming through each day, especially this time of year. It is a heavily---

Mrs. Meek. It is labor intensive.

Mr. Metzler. It is a labor intensive operation.

One other division that we have is the horticulture division. We have some specialized people within that division that take care of trees, arborists, horticulturists that look at the overall grounds, apply pesticide, herbicide, fungicide, topical applications. These are highly trained blue collar workers, but also we have some technical people within that division that have those disciplines as part of the makeup.

We have a vehicle and equipment operation where we maintain our own equipment with the mechanics, services, again blue

collar type of industry, but we maintain all of our own rolling stock so we can continue to operate with whatever challenge that we have each day.

Mrs. Meek. All right, thank you. Thank you.

Mr. Metzler. Yes, ma'am.

responses for the record

Mr. Westphal. Mr. Chairman, I would just like to volunteer to get for the record, for the committee and for Mr. Mollohan, some response on two of your questions, the one about the delays in burials. I will try to address that for you with some better information as to what is going on.

Mr. Metzler. Also if I may, we are currently--we have even asked this question internally within our own operation, we started to study this week just to address that very issue is, when we get a phone call, we are asking three questions of our staffs internally, can we schedule the funeral within 5 days, if we can't schedule it within 5 days, what is the specific reason and we are capturing that each day. We would be more than happy to make a copy of that available within a 30-day tracking.

Mr. Westphal. We will get that for the committee.

We will also address the Internet site issue as well. We will find out what is going on with that and what our options are. As Jack mentioned the--it is much like my Web site. I have a Web site for my office the Secretary of the Army, and it is buried within the Army Web site, so I believe this is the same situation we have here.

Mr. Mollohan. All right.

Mr. Walsh. All set?

Mrs. Meek. Yes, thank you.

Mr. Walsh. Thank you. We will submit questions for the record and you are free to go. Thank you very much.

Mr. Westphal. Thank you very much.

Mr. Walsh. The hearing will adjourn.

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